ΒΟΤΑΕΤΤΗΡΙΟΝ.

OR,

A Practical Demonstration OF COUNTY-JUDICATURES.

Wherein is amply explained the Judiciall and Ministeriall Authority of

SHERIFFS AND CORONERS.

Together with the Original, Jurisdiction, and method of keeping all Countrey-COURTS.

By WILL: GREENWOOD. φιλόνομ⊖.

Theophrastus.
ὁ μηδὲν ἀδικῶν, οὐδενὸς δεῖται νόμου.
Qui nihil injuste agit, nulla opus habet lege.

The Third Edition.

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Sr Richard Newdigate of
Arbury in the County of Warwick
Baronet 1759

TO THE

CANDID

AND

Ingenuous Readers.

HOw worthy of obſervation is that ingenious *Apothegme* of Divine *Plato*, when he ſaid; Ἕκαστος ἡμῶν, οὐχ αὑτῷ μόνον γέγονεν, ἀλλὰ τῆς γενέσεως ἡμῶν τὸ μὲν πατρὶς μερίζεται, τὰ δὲ τοῖς γεννήσασι, τὰ δὲ τοῖς λοιποῖς φίλοις. *Non nobis ſolum nati ſumus, ſed ortus noſtri partim ſibi patria vendicat, partim parentes, partim amici.* So the perſwaſive dictates of this golden *Theme* ſuggeſted to me, the utility a Treatiſe of this nature would produce to the Countrey, which inſtigated my Pen to demonſtrate as well the Theorick as Practick part of thoſe Courts generally incident to it;

for the more the country knows them, the better they will affect them; *ignoti nulla cupido*. I cannot comprehend how any thing can be more uſefull to and for the Country, and conſequently more generally expetible and wiſhed for, then the Theorick and Practick knowledge of theſe Courts; for who is there in any County of this *Common-wealth*, or within the ſeveral Precincts or Juriſdictions of any of theſe, that is not or may not ſue and be ſued in them? So that here they may read and underſtand how their Actions do proceed, and what, and how far the power and force of every *precept* and *warrant* doth extend, and what the *fees* are; and may, as with a touch-ſtone, try and examine the actions and proceedings of their *Attorneys* or *Sollicitors*. I muſt acknowledge my early experience (that I am but ὄνος πρὸς λύραν. *Aſinus ad Lyram* in theſe diſcourſes) in compariſon to ſome of the more grave and ancient practicers,

cers, is but as a drop of water to an overflowing bucket: neither am I ignorant that much hath been writ upon theſe particular ſubjects, by men whoſe ſage and induſtrious labours, and ſtrenuous abilities, I dare not ſo much as emulate; yet, in a matter of ſo grand and publique importance, I hope I ſhall not be too ſeverely blamed if I, according to my curſory and imperfect manner (for never any at once vaulted into perfection) adventure to follow their footſteps; for the ſubject is not new as touching matter, but only in invention, order, ſtyle, & method of handling it; for I walk not upon mine own legs, but am ſtilted by what I have borrowed from thoſe *Luminaries of Learning*. I am indebted to all; yet not being beholding to any of my *Creditors* without giving them a note under my hand, nor averring any thing of my ſelf, thereby to muzzle the mouth of contradiction: for I know the too acute ſeverity of ſome, will be furniſhed with latitude enough to

charge my pen with Lapſes, and Imperfections. Therefore you muſt expect better and more generous Wine of the old *Vine-tree*, according to that of *Pliny*, *Vetuſtioribus ſemper vitibus vinum melius*; for I dare not promiſe you (*Amphoram ne urceus exeat*) a mountain, leſt it produce the ridiculous iſſue in the *Fable*.

Objections may peradventure ariſe, That in this I have imitated the *Amygdala* or *Almond-tree*, that with celerity buds and brings forth her fruit; or that I have ſoared above my pitch, attempting an *Eagles* flight with the flagging wings of a *Wren* in the high ſpring-tide of an over-weening opinion, pricked forward by an inſatiate deſire of *poſthume glory*, or conducted by the *Ignis fatuus* of popular applauſe: but this I look upon as the carp of ſome *Ariſtarchus*, ſtept in to calumniate what he cannot better; neither do I expect but to be ſubject to ſuch a laſh; for I confeſſe it (according to that of *Nicomachus*) ἐργῶδες εἶναι ἐν βίῳ βιβλιογράφον

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τοὺς τῶν φθονούντων πάντας ὀφθαλμοὺς λαθεῖν. *Difficile esse in hac vita degentem, omnes invidentium oculos latere*: yet let such *Criticks* take this by the way, that Ῥᾷον μωμήσασθαι ἢ μωμήσασθαι, *it is far easier not to like, then to do the like.* But though they do uncivilly prejudicate my endeavors with a sinister conceit, or uncourteously censure my non-ability, impeaching me for some things that do distaste their delicate palates, as my former appearances have done; yet *jacta nobis est alea*, I intend by the divine favour happily to proceed, though unhappily I have begun; (for in truth the subject would require the studious *pen* of a sage Lawyer, yea the combination of learned heads, to do it to the life: yet neglected (for I ever esteemed the employment of those talents, either naturally bestowed on *Man* by the *Deitie*, or acquired by study and industry, ought more properly, yea, and of duty, to be employed in the service of our *Country*, than to be made use of in the satisfaction of our

private humours: therefore I do here(in acquittance of that general obligation)endeavour to offer up this *mite* of my endeavors among the many learned and elaborate works which the choice wits and ſtudious pens of our age have produced in all kinds: for the *World* at this time is oppreſſed with nothing more then the Preſs,every one ſtriving to diſtill the dewy quinteſſence of his brain through his *Limbeck* of invention; ſo amongſt the reſt I have not altogether ſequeſtred my ſelf: for when I had employment, they were my vacancies to reſt; when I was infected with vice-nouriſhing idleneſs, they were my employments.

I aſſume not upon me to write any *Encomium's* upon the Book, it belongs not to me; but now it is abroad, muſt totally be ſubmitted to your judgement and cenſure. And I know it muſt be the worth of a book, and not the wyre-drawn flouriſhes of an obſequious Epiſtle that cauſeth your approbation, ſo that this muſt ſtand or fall by

by the weight or levity you ſhall finde in it.

Now as this Tract is chiefly intended for the commodity of the *Countrey*, and as it is their ſole object to place their invectives point-blanck againſt *Law* and *Lawyers*, and if I vindicate them, I ſhall rather ſeem to detract from, then add to, their *fame*, it having been the ſole ſubject of many learned *pens*; yet I hope it's no preſumption, if I add one *Lawrel* more to the learned's *Crown*: The *Lawes* conſtituted by learned men, antiquity own'd and receiv'd as from the command of the Gods, accounting only thoſe men fit to converſe with the Gods; Thus *Minos* the *Cretan* is ſaid to converſe with *Jupiter*, and in his preſence to compile thoſe *Laws* he after gave to the people; and *Lycurgus* the *Lacædemonian*, to have command from the *Oracle* at *Delphos*; and *Numa* to conſult with the Goddeſs *Ægeria*, that the Lawes might be more cordially admitted

and

and obeyd, as made by the gods themſelves. Nay, in a kind, by a civil *non obſtante*, excepting them (ſo learned) from being obliged by *Law*, as other men of leſs magnitude were; as appears in that carriage of *Architas* the *Pythagorean* his Citizens to him, whom they would chooſe ſeven times their head-Governor, though the Law prohibitted any other that office and honour above a year. Have a retro-ſpect to the *Journals of Antiquity*, view the *Diaries of time*, and you ſhall find men learned in the *Lawes*, noble advantages to their *Countrey*, their *Champions* to defend them, their *Oracles* to adviſe them, and their *Orators* to plead for them.

And now, as to the *Lawes* themſelves, which may be truly term'd the Walls and Palizadoes of Governments and *Nations*; yea, the ſtrongeſt ſinews of humane ſociety; for, take away the potency of *Laws*, & who is it that can ſay, This is mine, or that he is within the *Bulworks* of incolumity? according

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ding to that eloquent *Aphoriſm* of *Demoſthenes*, Πόλεως ψυχὴ ἄνευ τῶν νόμων· ὥσπερ γὰρ τὸ σῶμα στερηθὲν ψυχῆς, πίπτει· οὕτω καὶ πόλις μὴ ὄντων νόμων, οὐκ ἴσταται. *Leges eſſe animam civitatis, ut etiam corpus cum anima orbatum eſt, concidit : Ita & civitas ſine legibus conſiſtere non poteſt* : So the true end of all Laws is to ordain and ſettle in order and government amongſt us, the juriſdiction whereof we are rather obliged to obey, then diſpute. Though *Thales* compared laws to ſpiders webs; But ſuch are ever to be ſpun in a corrupt *State*; ours are Ἐμψυχονόμιον, *ſpeaking laws*, that dare tax a Delinquent be he never ſo potent; For the *Law* is grounded upon the *rules* & *axioms* of *reaſon*, and therefore have an ingeminate denomination: the abſence of the one, is the deformity of the other, being in a kind *convertibilia*, and inſeparable. That common *Reaſon* we have ingraffed in our natures, is a law, directing what we are to do, prohibiting the contrary, according to that of *Cicero*, *Eadem ratio cum eſt in hominis mente confir-*

confirmata et confecta lex eſt. For *Law* is nothing but reaſon dilated and applied upon ſeveral occaſions and accidents: The comprehenſion of reaſon is of publick enormities and neceſſities, for which they be ſeverally at ſeveral times conſtituted, being infinite: ſo that the diſeaſe in our knowledg many times hath the priority of the remedy. And thus the reverence & duty we owe to *laws*, is nothing elſe but obedience to *reaſon*, which is the begetter, correcter, and preſerver of the very *laws* themſelves. Thoſe therefore who will not obey them, are more propinque to the nature of *bruits* and *ſalvages*, then men indued with reaſon. It is *law* & *reaſon* that do knit the true *Gordion knot*, that binds and cements us to unity and peace amongſt our ſelves, and diſſipateth all ſuch violent and illegall courſes, as otherwiſe unbridled liberty would inſinuate, preſerving every man in his right, and preventing others, who if they thought their actions might paſs with impu-

impunity, would not measure their course by the rule of *Æquum & Justum*, but by the square of their private commodity and affections; and so being not circumscribed within reasonable Bounds or Landmarks, their reason becomes invisible; whereas when they finde that *Justice* hath a predominant power, they are deterred from proceeding in those Acts, that otherwise their own wills and inclinations would give them leave to effect. And these were the causes that prompted *prudent Antiquity* to institute these Courts of Judicature in each *County*, and their several Precincts, and likewise was the cause instigated me to compile this *Miscellanie* of Courts, which in it self is methodical, facile and perspicuous, to benefit the meanest capacity, yet satisfie the highest. I have now nothing more but to Apologize with *Isocrates*, who with this rule prepares me to endure the supercilious censures and various opinions of men.

Δεῖ ὁμοιῶς ἀκροᾶσθαι τῶν κατηγορούντων ἀπολογουμένων. And that I hope your candid ingenuities (*Juvenili mea ætate considerata*) will promise me your connivance at those *Errors* that shall occur, and that you will (*mitissimo aspectu*) smile upon this *Cradle-brat*, whose little desert, though it cannot expect the perusal, yet its humility in prostrating it self before you, may merit your acceptance, whereby he shall be encouraged to higher designes, whose highest ambition is to be

Your friend to serve you,

W. G.

From Furnivals Inne, *April* 20. 1659.

Ad amicum eruditiſsimum *G. Greenwood*, in Βιβλιοθήκιον ſuum Εὐφημισμὸς.

DUm ſtupendam ingenii tui fœcunditatem, lanuginoſa concluſam ætate, ſuſpitio, in mentem ſubit, imberbem Apollinem in te ſuum transfudiſſe genium, ut teſtaretur tibi minus pili, quam eruditionis accreviſſe. Minerva non multo pridem, e Joviali tuo cerebro prodiens, affectus amoris titulo vulgo inſignita, inventionem ovantem plane oſtendit; luxuriantis calami veneres dulceſcentes ſuas exhibent pulchritudines, nec formoſa facetiarum roſa caret Aculeis, laſcivientes digitos ſtimulantibus. In deſudato hoc βιβλιοθηκίῳ tuo limatum triumphat judicium, antiquiſſimarum Curiarum leges, & methodos a prudentiſſimis ſui ævi inventas & excogitatas, ad immenſum decus, elucubraſti: quæ tenebricoſæ vetuſtatis ruderibus jacebant occulta, in lucem dediſti: Magis familiaria, ſive indigeſta, ſeu diſſeminata, politiori diſpo-

disposuisti ordine, & in unum velut perfectionis corpus congessisti. In debitum hujus libri non excurram elogium; quælibet pagina suis turget laudibus, tuamque ultra Herculis Columnas diffundit famam. Magni futuri nominis eximia sunt hæc præludia; nec de expectatione, tantis suffulta speciminibus, dubitandum fœliciſſimam cerebri tui ubertatem largiori rivo in publicas utilitates manaturam; ego interim, impositis ori digitis, filebo, & mirabor.

Tui amantissimus

J. P.

OF THE ORIGINAL OF SHIRES, SHERIFFS, And the first INSTITUTION OF THIS COURT.

BEfore we anatomize the practice of this Court, we thought it convenient to deduce it from its Original or Prototype, *Quia origo rerum attendenda:* and first of the Shire.

Shire is a Saxon word ſcyꝛe, and hath its Etymology from ſhipan, *(id eſt) partiri*, to divide, as Mr. *Lambert* ſaith in his explication of Saxon words, *Verb. Centur.* And Mr. *Cambden* in his *Britania* reporteth, that *Alfred* (a Saxon) King of *England*, was the firſt that divided this Commonwealth into Shires, thoſe Shires into Ridings, and thoſe Ridings into Weapentakes, or Hundreds, *&c.* Likewiſe as Sir *Henry Spelman* in his Gloſſary ſaith, *Sunt qui Comitatuum diſtinctiones ſub Berengariis & Othonibus, vel ſub Carolo magno, apud exteros accidiſſe opinantur; quod de plurimis forte verum fuerit.*

rit, nonnullæ autem antiquius deprehenduntur. Rem apud nos perspicuam facit Ingulphus, si sane fides. Rex (Alfridus, alias Aluredus & Æthelfridus, qui regnum iniit Anno 871) totius (inquit) Angliæ pagos & provincias in Comitatus, primus omnium commutavit, Comitatus in centurias & hundredas, & in decennas (id est) tithingas divisit. Which strenuous authorities, are sufficiently valid to prove the Original of Shires, and their divisions.

The Republick being thus disunited or dissected into Shires, every Shire is entirely governed by one Officer called a Sheriff, or Shire-reeve, *Vicecomes*, compounded of these two Saxon words ꝼꝺꝼ *viz Satrapia*, a Shire, and ꝼeue, *viz Præfectus*, a Governour of the Shire. Mr. *Cambden* thus describes his Office: *Singulis vero annis, nobilis aliquis ex incolis proficitur, quem Vicecomitem quasi vicarium comitis & nostra lingua* Sheriff, *viz. Comitatus præpositum vocamus: qui etiam comitatus vel provinciæ Quæstor recte dici potest.* But in *Seldeni Jani, fol.* 53 & 54. you have two Governours of the Shire assigned; where he saith, *Præfectus provinciarum qui antea vicedomini (ad Ingulphum reversus est Aluredum) in duo officia divisit.* 1. *in Judices quos nunc justiciarios vocamus, & in Vicecomites, qui adhuc idem nomen retinent. Facessat ergo Polidoras urbinas, qui primos a Normanno petit Vicecomites,* which we now call *Vicount a Vicecomite*, which cometh from our Conquerors the Normans, as Sheriff from our Ancestors the Saxons. Also Sir *Henry Spelman* in his Glossary saith. *Quinam autem tunc essent magistratus quos Ingulphus hic vocat* Justiciarios & Vicecomites; *non plane assequor. Reor, Aldermanni provinciarum, & Grevii; Saxonice,* ealdoꝼmen & ȝeꝼeꝼaꝼ. *De Grevii* (saith he) *tamen munere nec habeo definitum: discrepare enim videtur* a Vicecomite, *quod hic tum adhuc comitis esset vicarius ille regis officialis, unde in Anglo Saxonum legibus. atque ipsius Aluredi;* Cyningeꝼ ȝeꝼeꝼan. *id est, Grevius regis, vel (ut Latine sæpius reditur) Præpositus regis appellatus est.* And that he is Governour of the County, the words of his Patent import as much, *viz. Commissimus tibi custodiam comitatus.* So that he is an Officer of great antiquity, trust, and authority, having from the King the custody, tuition, and command of the whole County, *Co. l.* 4. 33. *Mittons case.*

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The aforesaid *Alfred* at the division of the Kingdom into Shires or Counties, instituted this Court called the County Court, and established Jurisdiction in it; granting power and authority to the Sheriff to hear and determine such matters as (either for Law or Equity) should be brought unto him. This Court (as it is recorded by Mr *Selden* in his Treatise of Tythes) was jointly exercised by the Bishop of the Diocess, and by the Sheriff or Alderman of the ꝑcipegemoꝺ, or Hundred, or County Court; where the one sate to give Goꝺeſ ꝓght, the other for pupulſpe pight, that is, the one to judge according to the Laws of the Kingdome, the other to direct according to Divinity. And Sir *Henry Spelman* in his Glossary saith, *Comitatum simul regebant, pariterque in foro considentes, judicia publica exercebant: hic secundum jus humanum, ille vero divinum, LL. Canuti MS ca* 44. *Habeatur ter in anno Burgesmotus* (i. *Civitatis conventus*) *& Schiresmotus* (i. *pagi, vel comitatus conventus*) *bis nisi sæpius opus sit: & intersit Episcopus, & Aldermannus, & doceat ibi Dei rectum & seculi: uterque scil pro suo munere. Idem Ladgari, LL. ca.* 5. *sed pro Aldermanis, illic comes extat* (*ut supra demonstravimus*) *& utrumque recte. Nam in comitatu simus considisse reor, Comitem reipub. partes tueretur; Episcopum, qui Ecclesiæ; & Aldermannum, qui Legem diceret & exponeret.* But at the Norman Conquest, this kind of holding Ecclesiastical Pleas in the Hundred or County Court was taken away, as may appear by this Mandate of *William* the Conqueror, recorded in *Seld. Jani. lib.* 2. *fol.* 76. *Willielmus Dei gratia Rex Anglorum, Comitibus Vicecomitibus, & omnibus Francigenis, & Anglis qui in Episcopatu Remigii terras habent, salutem. Sciatis vos omnes & cæteri mei fideles, qui in Anglia manent, quod Episcopales leges, quæ non bene, nec secundum sanctorum Canonum præcepta, usque ad mea tempora in regno Anglorum fuerunt, communi consilio Archiep. meorum, & cæterorum Episcoporum, & Abatum, & omnium principum Regni mei emendandas judicavi. Propterea mando, & regia authoritate præcipio, ut nullus Episcopus vel Archidiaconus de legibus Episcopalibus amplius in hundredo placita teneat, nec causam, quæ ad regimen animarum pertinet, ad judicium secularium hominum adducant, sed quicunque se-*

cundum Epiſcopales leges, de quacunque cauſa, vel culpa interpellatus fuerit, ad locum, quem ad hoc Epiſcopus elegerit & nominaverit, veniat, ibique de cauſa ſua reſpondeat & non ſecundum hundredum, ſed ſecundum Canones & Epiſcopales leges, rectum Deo & Epiſcopo ſuo faciat.

Lambert. Arch.

All actions whatſoever were brought in this Court before the Sheriff, as it is reported by Mr. *Lambert* in his *Archeion* in that particle of the Laws of *Edgar* to our matter in hand, *viz. Let no man ſeek to the King in matter of variance, unleſs he cannot find right at home: But if it be too heavy for him, then let him ſeek to the King to have it lightned.* The very like whereof in effect is to be ſeen in the Laws of *Canutus* the Dane, ſometimes King of this Realm; out of which Laws may be collected four things.

Firſt, That every man had means, and was authorized to ſue and commence their actions in this Court, in their own ſhire or County.

Secondly, That no man ought to ſue out of the County, or to remove or draw his plea from thence without good cauſe; both which things do plainly appear in the letter of this Law.

Thirdly, That the King himſelf had a high Court of Juſtice, wherein it ſeemeth that he ſate in perſon; as theſe words do demonſtrate, *Let him not ſeek to the King, &c.*

And laſtly, That the ſame Court of the Kings did judge not onely according to meer right and Law, but alſo after equity and good conſcience. And after this order, and in theſe two Courts, was all juſtice adminiſtred. This Court continuing (until the time of *William* the Conqueror, and ever ſince during the times and Reigns of the ancient Kings) and doth yet continue (in manner) the ſame form and ſubſtance that it then was; and the pleas ought no more to be taken from it now in our daies (without cauſe) than they ought then to have been; which may evidently be proved by thoſe ancient Writs of *Pone, Recordare, Writ of falſe Judgement*, and *Accedas ad curiam*, which are yet in uſe to this day, and to this only end to remove ſuits (upon cauſe) out of this Court into ſuperiour Courts. But becauſe this requireth great ſearch of Records to make any further progreſſion (whereunto I have no acceſs) I muſt leave it to ſuch whoſe abilities

are more strenuous to travel in so intricate a path.

This Court is no Court of Record, but only a Court-Baron (though it had in ancient times the cognition of great matters, as may appear by * *Glanvile, lib.* 1. *cap.* 23. 4. by *Bracton* and *Britton* in divers places, and by * *Hengham Fleta, lib.* 2. *cap.* 62. but it was abridged by the Statute of *Magna Charta, cap.* 17. and much more by 1 E. 4. *cap.* 2. *unico.*) therefore Pleas holden in this Court by Plaint, nor Pleas holden by *Writ of Justicies*, are not taken as matters of Record, for those Pleas are holden by reason of the Court which the Sheriff holdeth by reason of his Office.

This Court no Court of Record. *f.* 8. *cap.* 2. *placita vero de furtis, melletis, hutesio plagis, verberibus, transgressionibus ubi non agitur de pace domini Regis fracta, ad Vicecomites pertinent audienda & terminanda.* See *Seldens* Notes upon it, *f.* 135, 136, 137, 138, 139, & 140. Likewise Sir *Henry Spelmans Glossary, fol.* 18. & 438. *LL. Edovar. Confess. cap.* 12. *Chimini vero minores de Civitate ad Civitatem ducentes, & de Burgis ad Burgos, per quos mercata vehuntur, & cætera negotia fiunt, sub lege Comitatus sunt, &c.*

This Court (as *Dalton* reporteth in his Office of Sheriffs) was ordained for the Sheriff to hold Pleas there, for particular or private matters (under forty shillings) between party and party.

Why instituted.

It is now, as it was alwayes, holden once every moneth, upon a day certain, the moneth being computed according to twenty eight daies in the moneth, and not according to the Kalendar. *Mag. Charta* 35. 9 *H.* 3. *c.* 35. 2 E. 6. *c.* 25.

The time when it is to be holden.

It holdeth no plea of debt or damages to the value of forty shillings, or above, nor of Trespass *vi & armis*, because a Fine is due thereby to the King; yet if the debt be forty shillings or above, and the Plaintiff will acknowledge in his Declaration the receit of so much as to bring it within forty shillings, in this case the plaint is good. But if the debt be above forty shillings, as five pounds, the Plaintiff cannot divide this into five several actions to make this Court hold plea of it; for in this case the Defendant may wage his Law, or have a Prohibition in *Banco Regis.*

Co. Inst. 4. *cap.* 55.

And of Debt, Detinue, Trespass, and other actions personal above forty shillings, the Sheriff may hold plea

by force of a Writ of *Juſticies* to him directed, for that it is in nature of a *Commiſſion* to him, and is not returnable. Neither doth this Writ alter the nature of the Court, for therein the Sheriff is not Judge, but the Freeholders or Suitors; yet all Judgments ſhall be pronounced by the Sheriff.

Where to be kept. This Court may be kept at any place within the County at the pleaſure of the Sheriff, but not out of it. Yet the Sheriff of *Northumberland* (by the ſtatute) is to keep his County Court in the Town or Caſtle of *Alnewicke*, and in no other place. The Sheriff of *Suſſex* (by the ſtatute) is to hold his County Court one time at *Cheſter*, and the other time at the Burrough of *Lewes*, and ſo to be kept *alternis vicibus* for ever: And alſo the Sheriff of the County of *Cheſter* is to keep his County Court in the ſhire-Hall of the ſaid County. *Daltons Office of ſheriffs, fol.* 157 & 158.

St anno. 2 E. 6. cap. 25.

Stat. 15 H. 7. cap 24. 33 H. 8. c. 26.

To this Court all perſons dwelling within the County owe ſuit, by reaſon of their reſiance; and therefore the ſuit there is called ſuit real; which to do, a man ſhall be amerced, not diſtreined, as he ſhall be for ſuit ſervice.

No Fine. No Fine can be impoſed in this Court upon any offender, becauſe it is no Court of Record. *Co.* 8. 41. & 60. & 11. 43. *Fitz.* 72. *d.*

Amercement. But a man may be amerced for a contempt, or a diſturbance of the Court, in the preſence of the Court.

What actions will not lye in this Court. This Court will entertain no ſuits for Charters of Land, or for Inheritance, or for Freehold of Land, or any titles of Land, or to make ſeveral plaints upon one entire debt by Bond, or actions touching life, nor actions to compel one to render an account. See here *fol.* 12 & 13.

The Office of the County Clerk.

THe Sheriff being elected, which is done yearly in the morrow after *All ſouls*, in the Exchequer Chamber, by the ſtatutes 9 *E.* 2. & 14 *E.* 3. *cap.* 7. And the Kings Letters Patents do commonly bear date the ſixth day of *November*, 12 *E.* 4 *c.* 1. unleſs it be in caſes of neceſſity, that the Court is forced to adiourn it, (before the next County day after his election, and diſcharge of the old ſheriff)

sheriff) he ought to be very diligent in deputing and constituting a County Clerk, such a one as is sufficient and able to keep the Court, that no corrupt dealing be in it, as he will answer the contrary: and that he be very skilful in entring the proceedings in it.

He ought to be endued with these qualities, according to the description of *Fleta*, *Provideat sibi Vice com' de Clerico circumspecto, & fideli, viro provido, & discreto, & gratioso, humili, pudico, pacifico, & modesto qui in legibus consuetudinibusque provinciæ; & officio Commit' Clericæ se cognoscat, & jura in omnibus teneri affectet, quique sub-balivos in suis erroribus & ambiguis sciat instruere & docere, &c.* Which is thus paraphrased, That a County Clerk ought to be endued and qualified with circumspection, fidelity, providence, humility, peace, and modesty; and must know himself (or be expert) in the Laws and customs of the Country, and to have ability to instruct or direct the Bailiffs or other Ministers in dubious things wherein they may erre. He must neither be attracted by price nor lucratory corruption, nor any sinister affection to wander out of the way of right. *Qui nec* (as *Bracton* adviseth) *ad dextram nec ad sinistram, vel propter prosperitatem terrenam, vel adversitatis metum a tramite justiciæ declinet.*

The sheriff (and not the King) hath power to delegate this Office to whom he pleaseth, as it appears in *Myttons* case in the fourth Reports; where Queen *Elizabeth* by Letters Patents did grant the Office of Clerkship of the County Court of *Somerset* to Mytton, with all Fees, &c. for life. *Arthur Hopton* Esquire, sheriff of the same shire, interrupted him, because it was incident to his Office. *Mytton* complained to the Lords of the Council, and was referred to the two chief Justices, *Wray* and *Anderson*; and after many arguments concerning the validity of that Grant, and conference had with all the other Justices, It was resolved by all the Justices, *Nullo contradicente*, that the said Letters Patents were void; and their reasons were, That the Office of sheriff was an ancient Office before the Conquest, and of great trust and authority, for the King committeth unto him *Custodiam Comitatus*: And although the King may determine the Office *ad beneplacitum*, yet he cannot determine this in part, as for one Town or Hundred,

dred, nor abridge him in any incidents to his Office; for the Office is entire, and ought to continue ſo without any fraction, or diminution, (unleſs by parliament) and the County-court, and the entring of all proceedings therein, are incident to the Sheriffs Office, *&c.* And though it was granted when the Office of Sheriff was void, yet the new Sheriff ſhall avoid it; as *Scroges* caſe, in the time of Vacation in the Office of Chief Juſtice of the Common Bench, Queen *Mary* granted the Office of the *Exigenter* of *London*, reſolved, that the next chief Juſtice ſhall avoid it, for it was incident to his Office. Alſo in all Writs directed to the Sheriff concerning the County-court, the King ſayes, *in Comitatu tuo*; and in return of *Exigents* made by him, he ſayes, *ad Comitatum meum tent. &c.* and the ſtile of the Court proves it. In a falſe judgment it is ſaid, *in pleno Com. tuo recordari facias, &c.* and in a Precept of *Toll*, it is ſaid *ſummoneas, &c. quod ſit ad Comitatum meum:* and it ſhould be very inconvenient that another ſhould have the cuſtody of the Entries, and Rolls of Court, which may be imbezelled, and the ſheriff reſponſible for them. And it was reſolved that the cuſtody of all the Goals within every County appertains to the ſheriff by right, and are annexed and incident by Law to the ſheriffs Office, *vide an.* 14 *E.* 3. *cap.* 10.

He cannot execute the Office of a County-clerk, and practice as an Attorney, both at one time, it being prohibited by the ſtatute of 1 *H.* 5. 4. being a cauſe of encreaſing ſuits, and a hinderance in diſpatch of Clyents cauſes.

He cannot act any thing without the aſſent of the ſuitors; if he do, an action of Treſpaſs lyeth againſt the ſheriff.

He muſt be careful in deputing honeſt, able and ſufficient men, as Bayliffs, for the executing of the Precepts iſſuing out of the Court.

He ought to enter no Plaints (except in caſe of Replevins) out of Court, but in full County (*ſedente curia*) yet the uſe is otherwiſe at this day, and (as it ſeems) good enough, verifying the Diverb, *Communis error facit jus.*

He muſt make ſufficient Precepts after the Plaints entred (but not before) againſt the Defendants directed to his

his Bayliffs, to attach or warn the Defendants to appear at the next County-court, and anſwer the Plaintiff.

The County-clerk and Plaintiff, upon complaint of the party grieved, may be examined by one Juſtice of Peace concerning the taking or entring of plaints in the County-court, and book, againſt the ſtatute: If thereby the Juſtice find any fault or offence committed, that ſhall ſtand for a ſufficient conviction and attainder without any further inquiry or examination. And the ſaid Juſtice muſt certifie the examination within a quarter of a year into the Exchequer, by the ſtatute of 11 *Hen.* 7. *cap.* 15.

If a *Writ of diſcharge* of the ancient ſheriff be delivered to the County-clerk, ſitting in the County-court, the authority of the ſaid ſheriff (although abſent) ſhall preſently ceaſe. *Dier* 49.

At the adjourning of every Court, he muſt appoint a day certain for the next Court, to the intent the Country may know at what time they may reſort thither to hear the *Writs of Exigent and Proclamations* read.

The Office of a Coroner in this Court.

A Coroner is one of the principal Officers of this Court, being choſen in it (by a Writ *de Coronatore eligendo*, directed to the ſheriff) by the Freeholders or ſuitors in open and full Court, and is publiſhed there; and after the ſheriff is to return and certifie into the Chancery the election of every ſuch *Coroner*, and their names; likewiſe the County-clerk in Court muſt adminiſter to the Coroner his Oath for the due execution of his Office.

The Coroner being thus elected and ſworn, he is to ſit there with the ſheriff every County-court, to give judgment upon Outlawries; which judgment ſhall be given and pronounced by him in the fifth County, and there the ſheriff is to return the *Outlawry* with the *Exigent*: But by this judgment no goods are forfeited before the Outlawry appear upon Record: neither ſhall ſuch an Outlawry diſable the party.

Exigents

Exigents and Proclamations to be proclaimed five County dates.

Exigents and *Proclamations* are to be proclaimed five County daies one after another, and once in the open Sessions, and once at the Parish Church door, where he doth or did lately dwell, that he appear, or else that he shall be outlawed. And if Proclamation be made five County daies, and at the fifth County day the Defendant appear not, then the Coroner shall give Judgment that he shall be out of the protection of our Lord the King, and out of the aid of the Law. *F. N. B.* 163. But before I conclude, let me give you in brief, why a man is said to be outlawed, and a woman waived; *viz.* A man is said to be outlawed because he was sworn to the Law, and now for his contumacy he is put from the Law, and said outlawed, as it were *extra legem positus*; but a woman is not so, but she is waived, and not outlawed, because she was never sworn to the Law. *Finch fo.* 115.

F. N. B. 3. *idem*, 395.

Of Attorneys in this Court.

IT was once objected to me, that no Attorney could legally practice in this Court, and that every man ought to prosecute his own cause himself: the statute of *Westminster* 2 *cap.* 10. That every man which oweth suit to the County court may make a general Attorney to prosecute and follow his suits in all Pleas: And likewise in the statute of *Merton, cap.* 10. *Quod quilibet liber homo, qui seetam debet ad Com. &c. libere possit facere Atturn. suum ad sectas illas prosequendas*: and an Attorney may do every thing in the name, and as the act of him, who gave him the authority, as if he did it himself: he is *aliorum negotiorum gestor*; for, *qui per alium facit, per seipsum facere videtur*: Likewise, these statutes following do institute Attorneys in the County court, *viz.* 6 *E.* 1. *cap* 8. 20 *H.* 3. *cap* 10 *&c. F. N. B* 156. I could instance many more, but I hope these are sufficient to stop the mouth of the opposers

In their practice they ought to be honest and just, according to their office and oath, not exciting men to suits, especially such as are forreign, and illegal, nor for little offences, and small debts, nor voluntarily (*argenti-gratia*) delay their Clients, nor demand any sums of money for the Prosecution of the Action otherwise then is allowed by the Court.

Of

Of Bayliffs.

A Bayliff is a ſervant or Miniſter of the Law, and by conſequence a ſervant to the party at whoſe ſuit he is to diſtrain the goods of any one. Therefore he ought to be true, faithful and vigilant in levying of Diſtreſſes: he ought not to be exoculated with common rural bribes; (as too many of them are.) His Office is thus deſcribed by *Fleta*. *Balivus eſſe debet in verbo verax, & in opere diligens & fidelis ac pro diſerto approbatore cognitus, plegiatus & clericus, qui de communitatibus legibus pro tanto officio ſufficienter ſe cognoſcat, Et qui ſit non juſtas, quod ob vindictam ſeu cupiditatem non querat ut verjus aliquos, &c.* He is to be contented with his wages and fees allowed him, which are certain and known (and as I have deſcribed particularly) being uſually paid; and if he take more then he ought, or commit any error in the execution of his Office contrary to the tenure of his Precept, then is he to forfeit forty ſhillings, and to be convicted thereof, by the examinations of the Juſtices of Peace, or any of them, 14 *E.* 3. *cap.* 9. And the ſheriff ought not (by his oath) to have any Bayliff, but ſuch as he will anſwer for, and ſuch as be true and ſufficient men in the County, and make each Bayliff take an oath for the true execution of his office; (but ſuch things are now not taken notice of.) And by the ſtatute of 27 *E.* 2. *cap.* no Bayliff, or other perſon ought to take a Diſtreſs, nor to execute any Proceſs until he be ſworn: but now common experience, and practice at this day, bears teſtimony to the contrary. *Alfred*, once King of *England* hanged Judge *Arnold*, for ſaving a Bayliff from death, who had robbed the people by Diſtreſs, and for extorting of fees. If the like Law were executed upon ſome of our grand Malefactors, it would make the Remainder more honeſt.

What Actions may be brought in this Court.

HAving precipitated my ſelf thus far, before I enter upon the proceedings of the Court, I will demonſtrate the grounds and cauſe of proceedings, and that is Actions, which

Bract. l. 3. *f.* 98. *Fleta l.* 1. *cap.* 15. which is the form of a ſuit, given by Law to recover a mans right: or, *actio nihil aliud eſt quam jus proſequendi in judicio quod ſibi debetur.* Therefore what Actions will hold in this Court, take as follows.

Devant le Viſcount *Sole*, *jans les Coroners*, pleas ſont tenus per voy de plaint, de perſonell actions, que ſont a recover aſcun ſumme deſouth 40 s. Come *Treſpaſſe, Det, Detinue, Covenant, Aſſumpſit, ou tiel, Mes n'ey Replevin ou Accompt, tout ſoit le ſumme cy poy: Car ils ne ſont a recover aſcun ſumme, ejus lux eſt pur aver les biens deſle deliver, lauter pur accompt render, Et treſpaſſe, ou tiel, ne giſt icy de damages deſuis* 40 s. *mes ſuperſedeas giſt al vicont ſur divers plaints en le County-court cheſcun deſouth* 40 s. *quant touts ſont pur un entie de de* 10. l. *ou ſur action de Covenant port la damages deſuis* 40 s. mes nul vi ſerra la ſuppoſe, car donque un ſuperſedeas giſt en que le brieve dit. que plea de treſpaſſe, Quare vi & armis ne ſerra tenus en un inferiour Court, ejus ſolement devant le Roy ou auter Juſtices per ſon commaundement. 8 *Eliz.* *Dyer* 246. *Fitz. N. B.* 299. *d.* *Finch. Ley.* 116. *b. cap.* 15.

All Actions of debt, either upon an account made by the parties for wages after a hire, ſums of money owing or due from one man to another, whether by writings or otherwiſe: it is grounded ſometimes by writing, as an Obligation, Bill, Covenant, or other eſpecialty; ſometimes without writing, as an Arbitrament, Rent, money lent, Parol, contracts, or the like.

All Actions of Detinue, Trover and Converſion, deceit upon a Warranty, a Delivery, Nuſance, caſe for ſcandalous words, caſe upon Aſſumpſits, and other actions of the caſe, as for a Dog killing cattel, abuſing a Diſtreſs, ſpoiling my goods, *&c.* actions of Treſpals, Aſſault and Battery, *&c.*

Si aſcun choſe que concerne Franktenement vient en queſtion en un plaint de treſpaſſe, ou tiel, le Court ne proceeder, come lon defendant avow pur damage feaſant, & plaintiffe juſtifie pur common paſture: Mes ſuit per breiſe en le County-court proceder. Et pur ceo en tiel caſe, ſur plaint en le County-court, partie n'ad remedie forſque breiſe de treſpaſſe vicontiel; Et per ceo vicont poet determine liſſue com't que franktenement vient en debate. *Fitz. N. B.* 70. *b. Br. Juriſd.* 98. 14 *H.* 8. 15 *b.*

All theſe actions would afford very much matter to treat

treat of at large: but (leſt this Treatiſe ſhould ſwell beyond its limits) I will refer you to the reading *Fitzherberts Natura brevium*, which doth learnedly treat of the nature of all actions, that lie in any Court of Judicature.

Within what time Actions muſt be brought.

ALl actions of debt grounded upon any lending or contract, as Book-debt, without eſpecialty, and for Rents in arrear: all actions of Treſpaſs, *quare clauſum fregit*, actions of Treſpaſs, Trover, Detinue, and Replevin for taking away goods and chattels, actions of account, all actions of the caſe (except actions for ſlander) which ſhall be ſued, muſt be commenced and brought within ſix years after the cauſe of ſuch action or ſuit accrued; if the Plaintiff be then of full age, diſcovert, *compos mentis*, at liberty, out of priſon, and in *England*; otherwiſe within ſuch time after he becomes ſo, and not after. *Stat.* 21. *Jac.* 16.

All actions of Treſpaſs for aſſault, menace, battery, wounding and impriſonment, within four years after the cauſe of action, and not after.

All actions of the caſe for ſcandalous words, within two years next after the words ſpoken, and not after.

Who may bring Actions, and who not.

IDiots, mad men, or ſuch as have *lucida intervalla*, ſuch as are deaf and dumb, or any other man, woman or child (except perſons diſabled by Law) being wronged, may bring the proper action appointed for remedy in that caſe; and all, or any of theſe wronging others may be ſued. And if an Idiot ſue or be ſued, he muſt do it in perſon.

An Infant muſt ſue by *Prochein amy*; and being ſued, muſt defend by Guardian.

A Feme covert cannot ſue but with her Husband.

An outlawed perſon is diſabled to ſue any action againſt any man in any Court of Law or Equity (yet as Executor he may ſue, becauſe it is not in his own right, but in truſt for another) but any man may ſue him, by *Coo. ſup. Litt.* 128. A man that is attainted in a *Præmunire*, may not ſue in any action, *Idem* 129. And a man that

is

is a convict recusant is disabled, so long as he so continues.

No Barretor can maintain any action in this Court, nor have judgment, unless it be required by all the suitors. *West.* 1. *cap.* 3.

But note, all these disabilities remain but during the continuation of the same impediment.

Of Pledges in this Court.

PLedges are obselete, except it be for Forrainers, or such as live out of the County, or out of the jurisdiction of the Court, or such as are unmarried, that have no goods distrainable, and it is if these be Plaintiffs: but if the Defendant should non-suit the Plaintiff, and have judgment against the Plaintiff and his Pledges, I never yet saw the form of the Judicial Precept, that ever issued out to levy the costs upon the Pledges goods.

Of the Proceedings in the Court.

BEcause I would not have the Country, and young Practisers ignorant of the proceedings in the Court, which is the life of the practise; I thought it necessary to make an abridgment of the terms of Law now used in the proceedings. And first of appearance, because it is the first thing done after goods attached.

Appearance. The first thing the Defendant in any action or suit is to do, is to appear, and shew himself in person, or by an *Attorney* in the Court, to answer the action, and defend the suit.

Essoyn. He may also appear by an Essoin, which is an excusation, coming from the French word *Exoine*; it doth delay the cause a Court day longer; (the common Essoin is *de male vener*) and if he do not appear the next Court, then it passeth by default, Judgment entred, and Execution issues out against his goods and chattels. But after the Defendant hath once appeared in the Court by an *Attorney*, there shall be no Essoin allowed.

Duc. tec. But if he appear neither by an *Attorney*, nor by Essoin, then further Process issues out against his goods and chattels, *viz.* The Precept of *Duces tecum*, and attachment, and

and Diſtreſs upon attachment infinite, until he do appear.

After the Proceſs executed, the next Court the Plaintiff is to appear and file his Declaration, to ſhew his cauſe of action, or matter of complaint, in which muſt be ſhewn who complaineth, and againſt whom, for what matter, how, and in what manner the action grew between the parties, and at what time and place the wrong was done; and in concluſion he muſt aver and proter to prove his ſuit and ſhew the damage he hath ſuſtained by the wrong done unto him. Special care ought to be had that it be drawn in manner and form; yet by the ſtatute of 36 *E.* 3. *cap.* 15 a Declaration ſhall be good, if it have matter of ſubſtance, though the terms be not apt; however to avoid doubts, and that the Attorneys may no depend altogether upon uncertainties, let them be diligent in taking right and full inſtructions from their Clyents, and inform themſelves of every *puntilio* which may be materially incident to the caſe, that ſo they may know what manner of action is moſt proper to be brought on the behalf of their Clyents. And note, that in good pleading the Law requires four things. 1. Verity. 2. Certainty. 3 Order. 4 Congruity. *Declaration.*

In ſome caſes, manner and form is chiefly to be looked at, but in other ſome not altogether ſo material. As if an action of debt be brought of the ſale of a Horſe for five pounds (where the bargain was for two horſes) the Defendant pleads that he oweth him nothing in manner and form; the Jury ought to find for the Defendant, for that the bargain was for two horſes for five pounds; ſo manner and form there is material, and parcel of the charge; and ſo it is in every caſe, where the action varies from the bargain or ſpecial matter. *Nota.* *Modo & forma.*

But if an action of the caſe be brought by the Husband alone, upon an *Aſſumpſit* to him by *R.* the Defendant ſaith he did not aſſume in manner and form, and the Plaintiff gives in evidence of an *Aſſumpſit* made to his wife, and his agreement to it afterwards; this is good, and manner and form is not material. 27 *H.* 8. *fo.* 29.

If an action be brought before there is any cauſe of action, the Declaration is inſufficient. But if a Treſpaſs was done the fourth day of *May*, and the Plaintiff declareth the ſame to be done the fifth, or the firſt day of *May*, when no

no Treſpaſs was committed, yet if upon evidence it falleth out that the Treſpaſs was done before the action brought it ſufficeth, 19 *H.* 6. 47. 5 E. 4. 5. 21 E. 4. 66. And Littleton ſaith, That the Iury may find the Defendant guilty at another day then then the Plaintiff ſuppoſeth, for the Law of *England* reſpecteth more the effect and ſubſtance of the matter, then every nicety of form and circumſtance. *Apices juris non ſunt jura.*

Note, that in actions of debt upon *Emiſſet* for Ware, for Money, or other things lent, upon an *In ſimul computaſſent*, actions of Treſpaſs, Battery, or upon the caſe, &c. you are not tyed to lay the certain day; but you may lay it any time after the cauſe of action accrued.

If an action upon the caſe be brought upon an *Aſſumpſit*, the Plaintiff muſt declare upon the whole promiſe made, and not upon part of it, elſe the Declaration is not good, *Mich.* 22. *Car. B. R.*

If there be words in a Declaration, which have no ſignification, or words ſuperfluous, the words ſhall be adjudged to be void words, and ſhall not hurt the Declaration: but the Declaration ſhall be taken as if thoſe words were left out of the Declaration. *Superflua non nocent. Hill.* 23 *Car. B. R. Paſc.* 24. *Car. B. R.*

A Declaration ought not to ſhew a thing by implication, it muſt be ſet forth expreſly.

If the Plaintiff do alter his Declaration after the Defendant hath pleaded to it, the Defendant may alter his Plea. For by the amendment of it, it may be ſo altered in matter, that it may require a different anſwer from what was formerly pleaded; and in that caſe if he ſhould not amend his Plea, he might be triced for want of a good Plea. *Prac. reg. fo.* 235.

Count. A Declaration is ſometimes called a count, as count in debt, *Kitch.* 281. count in Treſpaſs, *Brit. cap.* 26. count in an action of Treſpaſs upon the caſe for a ſlander, *Kitch.* 251. But a Count is more properly uſed in Real than Perſonal actions; and a Declaration more applyed to Perſonal than Real. *F. N. B.* 18. *a.* 60. *D. N.* 71. *a.* 198. *c.* 217. *a.*

Non-ſuit. If after Proceſs executed, the Plaintiff do not appear and file his Declaration, and the Defendant doth appear, upon ſuch default the Plaintiff is non-ſuited, the Defendant may have his coſts.

In

In every caſe where the Plaintiff may have coſts againſt the Defendant, there, if the Plaintiff be non-ſuit, or a Verdict paſs againſt him, the Defendant ſhall have his coſts, as in Treſpaſs, Debt, Covenant by Specialty, or upon Contract, Detinue, Accounts, actions upon the caſe, or upon the ſtatute for perſonal wrongs, 23 *H.* 8. *cap.* 15. Adminiſtrators nor Executors ſhall not pay any coſts, neither upon Non-ſuit or Verdict, becauſe their actions are brought upon Debts or Contracts not made between them and the Defendants. But if they bring actions for things done to themſelves, as for the taking away of goods from them, *&c.* and they be Non ſuit, or Verdict paſs againſt them, in this caſe they ſhall pay coſts.

After the Plaintiff hath appeared, and Declaration filed, upon the appearance of the Defendant, *Emparlance* is to be entred: *Emparlance* is, when the Defendant being to anſwer the ſuit or action of the Plaintiff, deſireth ſome time of reſpite to adviſe himſelf the better what he ſhall anſwer; being nothing elſe but a *Continuance* of a cauſe till a further day. *Emparlance.*

Now to demonſtrate what the word Continuance ſignifieth; it is, after a ſuit is begun, and the Plaintiff hath declared, he muſt continue his ſuit from Court-day to Court-day, or elſe the adverſe party may take advantage of it; and this is called a continuance, being but only a proroguing of a ſuit from time to time, to keep it in being; and this is by the act or order of the Court, and ſometimes by the agreement of the Attorneys of both parties. *Continuance.*

The Rule, or *dies datus*, is when further day is given to the Plaintiff to put in his Declaration, or to the Defendant to put in his anſwer; the time is uſually the next Court-day. *Rule.*

The next Court after the filing of the Declaration, and *Emparlance* given, the Defendant is to put in his anſwer, which he pleadeth and ſaith in Bar to avoid the action of the Plaintiff, either by confeſſion and avoidance, or denying the material parts thereof. It muſt be legal, full, and perfect; for a bad or inſufficient Plea is in Law as no plea. *Anſwer.*

If Iſſue be not joyned upon the anſwer, then the Plaintiff is to file his *Replication* to the anſwer of the *Replication.*

Defendant, which muſt affirm and purſue his Declaration.

Rejoynder. Then the Defendant muſt put in his *Rejoynder* to the Plaintiffs Replication, which muſt purſue and confirm his anſwer; for every *Rejoynder* ought to have theſe two properties ſpecially; that is, it ought to follow and enforce the matter of the Bar; and alſo to be a ſufficient anſwer to the Replication.

Sur-rejoynder. If the parties be not at iſſue by reaſon of ſome new matter diſcloſed in the Defendants Rejoynder that requireth anſwer; then may the Plaintiff Sur-rejoyn to the ſaid Rejoynder, if there be cauſe, but it falleth out very ſeldome. This Sur-rejoynder is a ſecond defence of the Plaintiffs Declaration oppoſite to the Defendants Rejoynder.

Demurrer. *Demurrer* cometh of the Latine word *Demorari*, to abide; and therefore he who demurreth in Law, is ſaid he that abideth in Law, *moratur*, or *demoratur in Lege*: whenſoever the Counſel of the party is of opinion that the Declaration or Plea of the adverſe party is inſufficient in Law, then he demurreth or abideth in Law, and referreth the ſame to the judgment of the Court. Now there is no Demurrer in Law but when it is joyned; and therefore when a Demurrer is offered by the one party, as aforeſaid, the adverſe party joyneth with him, and thereupon the Demurrer is ſaid to be joyned, and then the caſe is by the Counſel of both ſides argued.

Co. Lit. 71. Fo. 7. b.

Nota.

When the Declaration, Anſwer, Replication, &c. are defective in reſpect of ſome circumſtance of time or place, &c. it may be remedied by conſent of the Court, or parties, or by a motion to the Steward.

Non ſum informatus. *Non ſum informatus* is a formal anſwer of courſe made by an Attorney, whereby he is deemed to leave his Clyent undefended, and judgment paſſeth for the adverſe party.

Nil dicit. It is a failing to put in an anſwer to the Declaration of the Plaintiff (in any action) by the day aſſigned; which if a man do, judgment ſhall paſs againſt him, becauſe he ſaith nothing to the contrary.

General Iſſues are theſe.

To an action of debt upon Specialty, *Non eſt factum.*

To an action of debt upon contract, or upon a Statute, *Nil debet per patriam*

To an action of caſe upon an Aſſumpſit, *Non Aſſumpſit*

To an action of Treſpaſs, aſſault and battery, or ſlander, *Non culpabilis.*

To a contract without Deed the Plea is *Solvit*, or an Obligation made for the deb *&c.*

To an Obligation the Plea is *Solvit, &c.* but to plead payment to an Obligation without acquittance is no Plea: For an Obligation or other matter in writing may not be diſcharged by any agreement by word, but by writing; *unumquodque diſſolvitur, eo modo quo colligatur.* But to plead payment at the day to an Obligation with condition, though no acquittance by writing it is good; for the condition is in nature of a Defeaſance to the Obligation. *Plea ſpecially to be plead. d. Obligation.*

To an action of debt, *Nil debet per patriam*; or, *per Legem*; or, *Solvit.*

If the action be brought againſt an Executor, or Adminiſtrator, the ordinary Plea is *Ne unq; Exec.* or, *Plene Adminiſtravit, &c.* *Againſt Executors or Adminiſtrators.*

If the ſuit be upon a Deed, or contract without Deed; that he was Deins age when he made the Deed or contract. *Nin-age.*

If it be againſt a woman, that ſhe was Covert; that is to ſay, had a Husband when ſhe made the Deed or contract. *Woman covert.*

If upon an arbitrament; that there was *nul tiel arbitrament* legally made, or that he hath performed the award *Arbitrament.*

If upon an action of Treſpaſs Damage feaſant; that the Beaſts came in by the default of the incloſure of the Plaintiff, or that he hath Title of Common there, *&c.* *Treſpaſs Damage feaſant.*

If upon an action brought for Rent, that there is no Rent in arrear, *&c.* *Rent.*

To an action of Detinue, *Non detinet.* A releaſe or gift to him by the Plaintiff; or that he did tender the thing ſued for before action brought; that the Defendant did deliver it to him as pledge for ten ſhillings which he hath not paid, *&c.* *Detinue.*

To an action of the caſe for ſlander, *Non culpabilis*; or juſtifie the words. *Slander.*

Caſe upon Warranty, *Non Warrantizavit.* *Warranty.*

Upon a Bond or Bill, plead, conditions performed, *Per minas, per Dures*, impriſonment, *&c.* *Debt.*

Upon a Demiſe, *Non Demiſit.* *Demiſe.*

Treſpaſs. To Treſpaſs, *Non culpabilis*; an arbitrament, Tender amends before the action brought, *&c.*

Nota. If divers men do a Treſpaſs, and one makes a good a cord, this will diſcharge, and be a Bar to all the reſt. C 9. 79.

Liberum tenementum. If Freehold be pleaded, this Court in that caſe can pr ceed no further.

There are divers Pleas to actions of Treſpaſs, ſome one nature, and ſome of another, as juſtification, *&c.* the Defendant have matter of juſtification or excuſe plead, he muſt be ſure to plead it ſpecially; for if he ple the general Iſſue, *viz. Non culpabilis*, it will be found gainſt him.

Where the Defendant is not conſtrained to plead a ſp cial Plea, he may plead the general Iſſue proper for t action brought, and give the ſpecial matter in Evidenc For every Plea muſt be ſo framed, that it may give a f anſwer to the matter ſet forth in the Declaration, to w all ſuch as are materially to be anſwered unto.

If one be ſued upon an Obligation, he cannot be co pelled to plead before he have *Oyer* of the condition of t Obligation.

If an Obligation of an hundred pounds be made, wi condition for payment of fifty pounds at a day, and at t day the Obligor tenders the money, and the Obligee re ſeth the ſame, yet upon an action of debt upon the Ob gation, if the Defendant plead the tender and refuſal, h muſt alſo plead that he is yet ready to pay the money, a tender the ſame in Court; but if the Plaintiff will n then receive it, but take iſſue upon the tender, and t ſame be found againſt him, he hath loſt the money for eve

Nota. Et hoc paratus eſt verificare. Every Plea muſt be offered to be proved true, by ſayi in the Plea, *Et hoc paratus eſt verificare.* And this is term ed an averment.

Et de hoc ponit ſe ſuper patriam If tender of Iſſue come on the Defendants part, th form is, *Et de hoc ponit ſe ſuper patriam.*

Et hoc petit, quod inquiratur per patriam. If on the part of the Plaintiff, it is, *Et hoc petit, qu inquiratur per patriam.*

If Iſſue be taken upon theſe Pleas, and Jury thereup warned to appear to try them, the Jury appearing, t parties may have their Challenges.

Challenge of Jurors.

CHallenge is ſaid to be, where there is evident favour, as Kindred, *&c.* the Juror of Alliance, Servant, bears malice, or hath ſome action againſt the Challenger. Juror a Goſſip of the Plaintiff; Juror Maſter to the Plaintiff; the Juror eat at the Plaintiffs coſt, or take money for his charges. If the Juror was choſen Arbitrator for one party, but otherwiſe where he was choſen indifferent for them: The Sheriff or Bayliff which make the Pannel, is of the Plaintiffs kindred: Thoſe who have been attaint of falſe oath, or were ſeen on the Pillory, or againſt whom there was judgment of life or member: Thoſe who pretend to have ſome right in the thing demanded. The Iuror outlawed, if the Record be ſhown. Iuror attaint of Conſpiracy, the Sheriff being plaintiff, it was allowed for a principal challenge, that the Defendant was indebted to the Iuror. If any one or more of the Iury be returned at the denomination of the party plaintiff or defendant, the whole array ſhall be quaſhed. If there be a challenge for cozinage, he that taketh the challenge muſt ſhew how the Iuror is Cozin. If one within the age of one and twenty years be returned, it is a good cauſe of challenge.

A Writ of Error was brought in the Exchequer Chamber, upon a judgment given in the Exchequer between *Vicars* and *Langham*, and the Error aſſigned was, that the Sheriffs of *London* having returned a Iury, and they being called, and ſome not appearing, the plaintiff prayed a *Tales*; and after the Iury made full by *Tales*, then the plaintiff challenged the whole pannel by exception to the Sheriffs, whereupon the Iury was quaſhed, and a new Iury impannelled by the Coroners, by which the cauſe was tryed. Now the exception was, that the plaintiff having prayed a *Tales* to the Sheriffs, and obtained it, was eſtopped to challenge the pannel for exceptions to the Sheriffs: But it was reſolved, that there could be no challenge, neither to the pannel, nor to the poll, till firſt there were a full Iury; ſo that the Iury not appearing full, there was a neceſſity to have a *Tales*, or elſe the challenge could not have been taken; and ſo the cauſe would have remained *pro defectu Juratorum*, if the plaintiff had not prayed it, for the defendant would not, and ſo the judg-

21 *E.* 4 *f.* 11. & 63. 20 *Aſſ.* 11. 2 *H* 4. *f.* 16 4 *E* 4. *f* 1. 2 *H.* 4. *f.* 14 13 *H* 4 *fo.* 14. 22. *B.* 2 *Car.* 177 8 E 3. *f.* 69 3 *H* 6 *f* 24 9 E 4 *f* 49 *Britt f.* 134 11 *H.* 4 *fo.* 40. 33 *H.* 6. *f.* 55. 18 *H.* 8. *fo.* 2. 8 *H.* 6 *f.* 60 *Paſc.* 31 *Eliz.* 21 E. 4. 74 11 *H.* 4. *c.* 9 23 *Aſſ.* 11. *Mir. cap.* 3 *Nota.* *Challenge may be taken to the Pannel made by the Sheriff, after a Tales prayed unto him.* *Eſtoppel binds not where it is inforced by neceſſity.*

judgment was affirmed. And note, that in this case there were none sworn before the challenge, but only impannelled. But if the principal Pannel do once appear full then the Challenge must be taken to the Pannel before any be sworn, otherwise it comes too late. Likewise note, that where the Plaintiff sues his *Venire fac.* to the Sheriff, he is not estopped thereby, to challenge the Pannel for kindred or other cause that was before the *Venire fac.* And though a Juror may be challenged for a cause happened since he was sworn, yet the Pannel cannot be so; for no ill affection of the Sheriff arising since the Juror sworn, can make the Jury suspected that were impannelled before. *Hob. rep.* 235 *Vicars & Langham*

An array made by the Predecessor of the Sheriff was challenged and quashed for coosenage: It was resolved by the Justices, that it was at the Election of the Plaintiff to have a *Venire facias* to the Coroner, or else to the new Sheriff. *Vic* 3 *Eliz. Dyer* 188. See 22 *H* 6 61. 18 *E* 4

Having now brought the Jury to the Bar, (and they prove all honest and indifferent men) being sworn, bid them stand to the Bar. *Nota.*

If a full Jury do not appear, as many as make default may be amerced.

What Witnesses are not sufficient to give in Evidence, and what are.

THe word *Evidence* is of a different signification, as signifying authentical writings of contract; but here is taken for proof of a matter in question, and at issue, by testimony of witnesses before a Jury, and according to the Evidence the Jury are to give their Verdict according to their oaths.

And to demonstrate who are insufficient, and may be excepted against, are such as are infamous, as are persons attainted of Felony, or of a false Verdict, or of Conspiracy, or of Perjury, or in a *Præmunire*, or of Forgery upon the Statute of 5 *E* c. 14. and not upon the Statute of 1 *H* 3. and such as have had judgment to lose their ears, to stand on the Pillory, or have been stigmatized or branded; and Infidels, men not of sound memory, or not of discretion, or such as are interessed in the cause, and may

have benefit by the thing in queſtion, theſe are not competent witneſſes; and a wife cannot be witneſs for or againſt her Husband: but all other perſons, though they be never ſo near in conſanguinity, Tenants, Servants, Maſters, Councellors, or Attorneys, are allowed for competent witneſſes. *Co. Lit. fo. 6. Plow.* 8 12. And theſe being required muſt come in to give evidence, or they forfeit to the party damnified ſo much as the Court ſhall award, and muſt give him coſts and damages. Statute of 5 *Eliz. cap.* 9. The Poet in two verſes doth declare what things are required in a witneſs. *Co. Lit. fo. 6. Plow.* 8. 12.

Conditio, ſexus, ætas, diſcretio, fama,
Et fortuna, fides, in teſtibus, iſta requirer.

The manner of keeping the Court.

THe Sheriff at the firſt Court, which ſhall be after his Election and diſcharge of the old Sheriff, muſt read his Patent and Writ of aſſiſtance, and nominate his under-Sheriff and County clerk and 1 & 2 *Phi & Ma. cap.* 12. four *Deputies* (at the leaſt) of the Replevins for the eaſe of the County.

Then enter the ſtile of the Court after this manner. *The ſtile of the Court.*

Prima Cur. Com. I. B. Ar. vic. Comitatus prædict. tent. Ebor. ff. apud Caſtrum Eborum die Lunæ 17 die Julii, Anno regni Domini noſtri Caroli *Secundi Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Regis, fidei defenſoris, &c. decimo quarto. Annoq; Dom.* 16 2

Then command the Bailiff to make Proclamation three times. *Oyes, &c.* and ſay; *Proclamation.*

All manner of perſons that have any thing to do at the County court holden here this day, before *I. B.* Eſq; Sheriff of the County of *T.* come forth and give your attendance.

Command the Bayliff to make Proclamation again. *O yes, &c.* and ſay; *Proclamation.*

All manner of perſons keep ſilence, and hear the Kings Majeſties Writs of *Exigent* and *Proclamation* read.

A Coroner is to be there then preſent to pronounce judgment of Outlawry againſt thoſe that do not appear upon the Exigent and Proclamation at the fifth County.

Proclamation. Command the Bayliff the third time to make Proclamation. *O yes, &c.* and say;

Essoyns and profers (before the Court three times) for this day. And then say; If any man will be Essoyned, or enter any plaints, let him come forth and he shall be heard.

Plaint. Then enter your plaint in this manner.

A. B. *versus* C. D. *de placito debti.*

Then call the plaintiff thus:

A. B. appear, or thou loseſt thy plaint, three times

Declaration. If he appear by an Attorney, then enter his Warrant of Attorney, *viz.* the two first letters of his name, over the name of the plaintiff, and then file his declaration.

Then call the defendant.

C. D. appear, and answer *A. B.* in an action of debt, (or as the case is) or thou forfeits thy goods distrained, and further process will be awarded against thee.

If he appear, then enter his appearance, and an Imparlance, to put in his answer (to the plaintiffs declaration) the next Court.

Answer. When the defendant hath put in his answer, if the plaintiff joyn issue, they may proceed to tryal the next Court-day; except they proceed further by Replication, Rejoynder, *&c.*

Venire facias. If they be at issue, send out a *Venire facias* to summon the Jury.

Then enter on the head of the pannel, thus:

Jur. inter A. B. *queren. &* C. D. *def. in placito debti.*

When they are brought to the Bar, command the Bayliff to make proclamation, *&c.* and say;

You good men that be impannelled to try the issue between *A. B.* plaintiff, and *C. D.* defendant, answer to your names, every man upon the first call, upon pain and peril that shall fall thereon.

If twelve appear, then swear them one by one, in this manner.

The oath of the Jury. You shall well and truly try this issue, between party and party, according to your evidence: so help you God.

And as they are sworn, enter by every mans name *Jur. viz. juratus est.*

Being all sworn, bid them stand together to hear their Evidence.

Then

Then ſwear the Witneſſes.

The Evidence that you are to give to this Inqueſt, touching the matter in variance, ſhall be the truth, the whole truth, and nothing but the truth: ſo help you God. *The oath of the Witneſſes.*

Then let the Iury depart from the Bar, to agree upon their Verdict.

At their return, command the Bayliff to call every one by their names, and count them.

Then ask them if they be all agreed on their Verdict.

Iur. Yea

Who ſhall ſay for you?

Iur. The foreman.

Then call the Plaintiff: *A.B.* appear, or thou loſeth thy plaint, three times. Then ask the Iury,

Whether do you find for the Plaintiff, or for the Defendant?

Iur. For the plaintiff.

What damages do you aſſeſs?

Iur. 2 *d.*

What coſts of ſuit?

Iur. 2 *d.*

Hearken to your Verdict; this you ſay, you find for the plaintiff, and aſſeſs damages 2 *d.* and coſts of ſuit 2 *d.* ſo ſay you all.

Iur. Yea.

Then bid the plaintiff pay the Iury.

If the Verdict find matter incertainly, or ambiguouſly, it is inſufficient, and no judgment ought to be given thereupon: as if an Executor plead *plene adminiſtravit*, *viz.* fully adminiſtred all the goods and chattels which were of the Teſtator, and iſſue is joyned thereupon, and the Iury find that the Defendant hath goods within his hands to be adminiſtred, but find not of what value, this is incertain, and therefore inſufficient. 17 E.3.47. 18 E.3.48 22 E.3.2. 18 E.3.55 15 E.3. *Judg.* 58. *&c.*

A Verdict that findeth part of the iſſue, and findeth nothing for the reſidue, this is inſufficient for the whole, becauſe they have not tryed the whole iſſue wherewith they were charged; but if the Iury give a Verdict of the whole iſſue, and of more, *&c.* That which is more is Surpluſage, and ſhall not ſtay judgment: for *utile per inutile non vitiatur*, but neceſſary incidents required by the Law the Iury may find. *Hil.* 25 *Eliz. Mic.* 28. *&* 39. *Eliz. inter Gommerſal and Gomerſal, &c.*

The

Adjournment. The Court being ended, adjourn the Court to another day to be kept, commanding the Bayliff to make Proclamation. *O yes, &c.* and ſay;

All manner of perſons that have any more to do at this Court, let them come to it and they ſhall be heard, otherwiſe they, and every one elſe, may depart for this time, and keep their hour here on Munday the fourth day of *Auguſt* next, by nine a clock in the morning *&c.*

Now the Court being done, and the Defendant condemned by Verdict, then (judgment being entred) a *Fieri facias* ſhall be awarded to make levy of his goods; and thereupon the Defendants goods ſhall be taken, praiſed and ſold to ſatisfie the party Plaintiff; and if the Defendant hath no good wherepon levy may be made, then the Plaintiff reſts without remedy in this Court: for being no Court of Record, no *Capias* lies.

Of Diſtreſs.

COnſidering the many wrongs the Country hath ſuſtained by thoſe Locuſts, that Legions Generation of men, a clamorous community, *qui ex injuria vivunt*, Seminaries of diſcord, worſe then any Polars by the high way ſide, *monſtra hominum*, *rabulas forenſes*, irreligious Harpies, ſcraping, griping Catchpole, Bayliff, and corrupt practiſers, and how much the ignorant people are abuſed and deceived, yea, many times (as the ſad experience of many will inform us) ruined and utterly undone by them, they being the ſole cauſes of thoſe ignominious aſperſions caſt upon the Court: The advantage that it would produce to the Commonwealth is inexplainable, if the ſtatute of 1 of *H.* 5. *cap.* 4. were obſerved; that is, that Sheriffs Bayliffs one year, not to be in that Office in three years after, becauſe by their continual being in that Office, they grow ſo crafty and cunning, that they are able to deceive the Sheriff, and ruine the whole Country. Therefore that the Country may not be altogether ignorant of their ſeeming authorized actions, I will declare what and when they may diſtrain; and what, and when they may not.

But firſt to declare what a Diſtreſs is.

A Diſtreſs is either ſaid to be real (that is) when Land is diſtrained upon a *grand cape*, or *petit cape*, of which we have

have nothing to ſay here: or it is ſaid to be perſonal, where moveable things are diſtrained; and this is that we are to ſpeak unto: Therefore a Diſtreſs is where one doth take and diſtrain the Beaſts, Cattel, and other things of a nother man, in ſome ground or place, for debt, rent, or other duty behind, or for ſome wrong or damage done. *Bro* 146. *Finches* *Ley* 135. *Co. l. p.* *Litt.* 97.

The Sheriff, nor his Officers, cannot break a mans houſe in the night-time to execute any Proceſs, or to do any miniſterial act: for the Law giveth no colour to break a mans houſe by night, unleſs an Ultary, *&c.*

None can be diſtrained that are out of the juriſdiction of the Court. *Marl. cap.* 2

No Diſtreſs can be made in the night, but for Damage feazant.

The Bayliff may attach a man by his goods, citing him to appear, and anſwer ſuch a day, at ſuch a mans ſuit, in ſuch a Court, and for ſuch a cauſe: Or he may only give the Defendant warning (in the preſence of two others) to appear ſuch a day, in ſuch a Court, at ſuch a mans ſuit, and it is ſufficient: and if an Attachment be made, it muſt be of ſuch goods (of the Defendants own proper goods) as are moveables, *viz.* by meer Chattels perſonals which may be forfeited by Outlawry, and not immoveables.

A Bayliff cannot ſever horſes joyned to a Carr.

Sheep may not be diſtrain'd, if there be a ſufficient Diſtreſs beſides.

No man ſhall drive a Diſtreſs out of the County where it was taken

A Diſtreſs may not be impounded in ſeveral places, upon pain of five pounds, and treble damages.

A man cannot work goods diſtrained, nor convert them to his own uſe.

The goods of any man may be taken in any place within the County, in another mans houſe or ground, as well as his own.

If a Bayliff diſtrain or attach the horſe of a Maſter, where the plaint is againſt the Servant, Treſpaſs lies for the Maſter againſt the Bayliff; for the Bayliff ought to take notice at his peril whoſe goods he diſtrains or attaches. 13 *H.* 4. *fo.* 2. 14 *H.* 4. 24. 11 *H.* 4. 90. *Dr.* and *St.* 139.

After Diſtreſs or attachment made, if the Bayliff doth not

not return his Precept the next Court, Treſpaſs lies againſt the Bayliff for the Defendant, and an action of the caſe lies againſt him for the plaintiff for not returning of the precept. 10 E. 4. *f.* 18. 3 *H.* 7. *f.* 3.

By *Choke.* If one take Beaſts in the name of a Diſtreſs, he ought to put them into an open Pound, for that he who is diſtrained may give to them ſuſtenance: but if he diſtrain dead Chattels, he may put them where he will; but if they ſpoil in his default, he muſt anſwer for them. 19 E. 4. *fo.* 2. *b.*

If goods diſtrained be put in an open pound, and they die, it is the loſs of the owner; but if they be put in another place, it is otherwiſe. 39 *H.* 8. *Fitz. Diſtreſs* 6. He that diſtrains Beaſts may put them in a cloſe houſe, if he will give them meat; for the putting of them into an open pound, is but to the intent, that the owner may give them meat. 1 & 2 *Phil. & Mar. cap.* 12. *tit. Diſtreſs.* That no Diſtreſs ſhall be driven out of the Hundred, unleſs to the open pound, nor above three miles.

Where a man diſtraineth Cattel damage-feaſant, or for rent, or ſervice, and puts them into the common pound, or into another pound, or place, and he who hath property in the Cattel, or other perſon, taketh the Cattel out of the ſaid pound, and driveth them where he pleaſeth, he who diſtrained them may have a Writ *de parco fracto*, *Fitz. Na. Br.* 293. E.

A man may not diſtrain for any rent or thing due for any Land, but upon the ſame Land that is charged therewith; but in caſe where I come to diſtrain, and the other ſeeing my purpoſe, chaſeth the Beaſts, or beareth the thing out, to the intent that I ſhall not take it for a Diſtreſs upon the ground, then I may well purſue; and if I take it preſently in the high way, or in anothers ground, the taking is lawful as well as upon the ſame Land charged, to whomſoever the properties of the goods be.

If one diſtrain my goods that are not diſtrainable by Law, I may have a general action of Treſpaſs, or an action of the caſe againſt him at my choice. *Co.* 4. 94.

The Diſtreſs muſt be reaſonable, ſomewhat proportionable

onable to the thing or cauſe for which it was taken: and yet if the cauſe be ſo that a man cannot take a Diſtreſs of leſs value, and the thing be after a ſort entire, as in the Diſtreſs of a Cart with its carriage, or with the Horſe or Oxen annexed to them, for twenty ſhillings, though there be much inequality, yet may it not be unreaſonable. *Marl.* 1. 4. 22 *E.* 4. 15. 20 E. 4. 3. 41 E. 3. 26. But ſuch Diſtreſſes as are either exceſſive for magnitude, as if one take four ſheep for four pence, or four Oxen for two ſhillings, or the like; theſe are unlawful Diſtreſſes, for which the Bayliff or diſtrainer ſhall be puniſhed: *Exceſſus in re qualibet, in jure reprobatur.* Yet if he take a Horſe or Oxe for two pence, where no other Diſtreſs is to be had, it is not exceſſive; but if there were a ſheep, or other goods ſomewhat proportionable to be taken, there it is exceſſive and puniſhable. *Co.* 2 *part. Inſt.* 107. 51 *H.* 3. *Marl.* 4. *Co.* 11. 44. 4. 8 *H.* 4. *Fitz. Na. Br.* 174. 45 *Ed.* 3. 26.

If one diſtrain my Kine great with Calf, and by driving they loſe their Calfs, I may have an action of the caſe. *F. N. B.* 86.

If goods be impounded in a cloſe houſe, or ſecret place, ſo that the Defendant cannot come to feed them, and the goods do periſh for want of ſuſtenance, the Diſtrainer muſt pay for them. 33 *H.* 8. *tit. Diſtreſs* 66.

If the Diſtrainer give the Cattel meat in the pound, he cannot compel the Owner of the Cattel to pay for this, for the Diſtrainer is not compelled by Law to give them ſuſtenance: and if they do agree after the Diſtreſs upon a ſum, yet this is no excuſe, but it is for their deliverance; but if they do agree at the time of the Diſtreſs taken, that he ſhould give them meat, and that he ſhould have twenty ſhillings (or a certain propounded ſum) for the ſame, this is a good bargain. 21 *E.* 4. *fo.* 53.

An action of Treſpaſs was brought upon the Statute, that none ſhould be diſtrained by his Cattel in the Plough, ſo long as any other reaſonable Diſtreſs may be had: and the Plaintiff declared the taking to be againſt the Statute, and did not ſpecially ſhew that he had other Cattel to be diſtrained, yet it was adjudged good for the

the Defendant to alledge this, 4 *E.* 3. & 18 *E.* 2.

Stuff ſent to a Taylor, Weaver, Fuller, Sheerman, Miller *&c.* ſhall not be diſtrained, for theſe Officers are neceſſary for the Commonwealth; and the like Law is of and in a Common Inn.

A Diſtreſs muſt be of a thing whereof a valuable property is in ſome body; and therefore Dogs, Bucks, Hares, Does, Cunnies, Bees, and the like, that are *feræ naturæ*, apparel, armor, cannot be diſtrained. Yet though it be of a valuable property, as a horſe that a man rideth upon, cannot be diſtrained.

If a man come into a common Inn, his goods and Beaſts ſhall not be diſtrained there, becauſe then it would be prejudicial to the Commonwealth.

Alſo goods and Chattels brought into a Fair or Market to be ſold, ſhall not be diſtrained. *Per cur. Mich.* 7 *H.* 7. *fo.* 12. 10 *H.* 7. *fo.* 21.

Windows, Doors, Tables fixed on a Poſt, a Furnace, Pales, Timber, Boards fixed on the ground, Glaſs, Mill-ſtone, *&c.* cannot be diſtrained, nor forfeited by Outlawry: but if theſe are not uſed in a houſe, but ſtanders by, then they may be diſtrained *Mich.* 21 *H.* 7. *fo.* 13. *Paſc.* 14 *H.* 8. *fo* 25. *Trin* 21 *H* 7. *fo* 27

If a Bayliff come to a houſe to diſtrain the doors being faſt ſhut and barred, and with his hand through a crevice or hole did ſhove the bar, and open the door, and did take out two Cows in the name of a Diſtreſs, and becauſe he did take a Diſtreſs in this manner, it was adjudged the Diſtreſs to be wrongful. *Fitzherb abridg. Diſtreſs* 21.

No goods ſhall be diſtrained but the proper goods of the party, and not pledges, nor yet borrowed goods. 35 *H.* 6. *fo.* 25 *per Moyle Juſtice.* And it is not of Chattels real, as a Leaſe for years, nor of apparel 7 *H.* 6. 9.

A Diſtreſs made by the ſervant of the Bayliff is good. 27. *Aſſ* 6 7.

If a man diſtrain Cattel, and they of their own accord come home again to the owner, he who diſtrained them cannot take them again, by reaſon of the firſt Diſtreſs, except he doth freſhly follow them, *per Danby* Juſtice, becauſe of the negligence of the diſtrainer, 9 *E.* 4. *fo.* 2.

If a man come to diſtrain for Damage-feaſant, and ſee the Beaſts in his ground, and the Owner chaſeth them out of

of purpoſe before the Diſtreſs taken, the Owner of the ground cannot diſtrain them; and if he doth, the Owner of the Cattel may reſcue them, for the Beaſts muſt be Damage-feaſant at the time of the Diſtreſs. 16 *E.* 4. 10. *Awbery* 282

A horſe cannot be diſtrained while the Owner thereof is riding upon him, or leading of him; nor if he be tyed at a Mill, and came thither with griſt; nor a horſe tyed at a mans door, the Owner being gone into the houſe on ſome buſineſs. *Paſ.* 39 *Eliz. Co. B.* adjudged.

If a Beaſt be unruly in the Pound, and is like to leap over the Pound, it ſeems the diſtrainer cannot juſtifie the tying him to the Pound, nor the fettering of him. *Broo. Treſpaſs* 250 27 *Aſſ. pl* 64.

None ſhall diſtrain wrongfully upon the penalties provided upon the ſtatute of *Marlb. Weſt.* 1. 16. 3 *E.* 1

None ſhall procure any to diſtrain another, to make him appear at the County court, or any other inferiour Court, on purpoſe to vex him, and put him to charge and trouble, on pain to make Fine to the King, and to pay the party grieved treble damages. *Weſt* 1 36 13 *E.* 1.

An Axe that is in a mans hand cutting of wood, nor goods that are impounded, and in the cuſtody of the Law, cannot be diſtrained, being diſtrained already, Damage-feaſant.

If one diſtrain my Cattel, or Goods, without any cauſe or colour, that is not good and juſt: or if a man having diſtrained my goods, will not tell me, requiring it, and offering to give ſatisfaction for what cauſe he diſtrained them; or if having cauſe to diſtrain, he do diſtrain Beaſts not diſtrainable, as Beaſts of the Plough, or Sheep; or if having diſtrained Beaſts diſtrainable, he afterward abuſe them, as if being a Horſe or an Oxe he work it, or being unruly he fetter it, or lay it ſo as it be thereby hurt; or if he put the Diſtreſs in an unknown place, that I cannot tell how to come to it to feed it; or if he take them out of the County, and put them into a Pound in another County; or if he diſtrain them in a place not diſtrainable: In all theſe caſes, I may have an action of Treſpaſs againſt him, *Co.* 8. 147. *Doct. & St.* 112. *F. N. B.* 47.

What

What goods may be taken upon an Execution.

Execution is a judicial Precept, iſſuing out after judgment properly called a *Fieri facias*, and lyeth where a man hath recovered in any action lying in this Court, either by default or Verdict, then he that hath recovered may have this Precept, commanding the Bayliff to levy the money (ſo recovered) of the goods and chattels of the Defendant and to bring it into the Court, that the party Plaintiff may have it.

The Bayliff may (by virtue of this precept or warrant after judgment) diſtrain the Defendants goods, and detain the diſtreſs in his hands in ſafe-guard, till the Defendant hath ſatisfied the Plaintiff of the condemnation. 27 *Aſſ.* 27. *F. N. B.* 165. and 4 *H.* 6. *fol.* 17. *Action.*

The Bayliff upon this precept is to do his utmoſt endeavour to levy the money upon the goods and chattels of the Defendant, and for that purpoſe to enquire and ſearch if he can find out any goods and chattels of his, whereon Execution may be made; and it will be wiſdome in the Plaintiff to make a diligent ſearch, to ſee if he can find out any thing to be taken hold of; and if he can diſcover any, to direct the Bayliff to it, who *ex officio* is to take it, and ſell it; and if he cannot ſell it, he is to return it ſo, and thereupon a precept called a *Venditioni exponas* ſhall be ſent to the Bayliff, to force him to ſell it, and pay the Plaintiff.

Goods taken in Execution muſt be praiſed, and Execution made of them. 27 *Aſſ.* 72.

Where erroneous judgment is given, the Officer which doth the Execution is excuſed. 22 *Aſſ.* 64. But the contrary, if judgment be given that is void: for where judgment and execution is of a thing whereof they have no juriſdiction, there Treſpaſs lies againſt the Officer for executing it; but if judgment be there but erroneous, and ſo void, falſe judgment lies, and no Treſpaſs againſt the Officers. *Plowdens com.* 394.

If after judgment a man doth ſell his goods, to defraud me of my Execution, and nevertheleſs taketh the profit of them; if it be ſo found, I may have Execution of the goods ſold by fraud. 43 E. 3. *fo.* 2. 22 *Aſſ.* 72. 50 E. 3. *fo.*

If the Bayliff hath a *Fieri facias* against a man, and before Execution he payeth the money, in this case he cannot do execution after; if he do, an action of Trespass lyeth against him. *B. R. pach* 12 *Car.*

If the Sheriff open or break any house to do execution at the suit of a common person, the execution is good; but the party, whose house is broken, may have an action of Trespass against him for the breaking of the house. *Co.* 5. 93.

If the Sheriff levy money upon an execution, and giveth it to the Plaintiff, though he never make any return to the Court, it is good enough. *Co.* 5. 90. 4. 67. 11. 40. 20 *H.* 6. 24. 4.

If a man hath a judgment in this Court against the Plaintiff, or the Defendant, and the execution is deferred in favour of him, the party grieved may have a Writ *de executione Judicii* from above to hasten it. *F. N. B.* 120.

This VVrit *de executione Judicii* is directed to the Sheriff, in whose county the execution ought to be done; and if he will not do execution, the complainant shall have an *Alias* and a *Pluries*, with this clause in the VVrit of *Pluries* (*vel nobis causam significe. &c.*) And if he do not execution upon this VVrit, or return not some reasonable cause wherefore he delayes the Execution, the party shall have an Attachment against the Sheriff returnable into the Kings Bench or Common Pleas, and must be directed to the Coroners (returnable as abovesaid) to answer, *&c.*

Goods pawned shall not be taken upon execution, for the debt of him who pawned them, during the time they are pawned. 24 *H.* 8. *Pledg.* 23. *&* 4 *E.* 6. *Distress* 75.

By *Fieri facias* (or *Levari facias*) the Bayliff cannot break the door or chest to take goods in execution, for if he do, Trespass lyes against him for the breaking only, and not for taking the goods in execution, 18 *E.* 4. *fo.* 4. *&* 13 *E.* 4. *fo.* 9. by *Choke*, notwithstanding 8 *E.* 2. *tit. Executors*, 152. to the contrary.

If a man letteth to farm by the year, Oxen or Cattel, and after the Lessor is condemned in an action of debt, these Cattel and Oxen demised, during the term, cannot, nor shall not be taken in execution for this debt. 22 *E.* 4. *fo.* 10.

A Bayliff cannot pull the latch to open the door, if it be ſhut, to make a diſtreſs. *Co.* 5, 91, 93. *Dyer.* 67. 224. But if the out-door of the houſe be open, the Sheriff may go into the houſe and take any thing there liable to Execution; and being come in at the open door, it ſeems he may break open any one of the inner doors. 18 *E.* 4. 4. *Co.* 5. 90. *Co.* 4. 74.

Of the Replevin.

CAttel being diſtrained for rent, damage feaſant, *&c.* the owner of the Cattel muſt go to the County-clerk (or ſome one of the Deputies appointed in the County for the granting out Replevins) to have a Replevin directed to the Bayliffs to replevy them; and the party muſt be bound in an Obligation to the Sheriff, to proſecute his action againſt him or them that did take the Cattel, and to make return of the ſame Cattel to the diſtrainer, if he by juſtification or avowry do recover. And if he purſue it not, or if it be found or judged againſt him, then he that took the diſtreſs ſhall have again the diſtreſs, and that is called *retorn. averiorum*, and he ſhall have in ſuch caſe a Writ from above, *de Returno habendo.*

It appeareth by the words of the Statute of *Marlebridge*, *cap.* 21. *Quod Vicecomes poſt queremoniam inde factam, ea ſine impedimento vel contradictione ejus, qui dicta averia ceperit, deliberare poſſit:* by which words it appears, that a plaint muſt firſt be entered in the County court, before the Sheriff can make a Replevin. But yet upon the ſaid Act, the Sheriff may take a plaint out of the County-court, for that it would be very inconvenient for the owner to forbear his Cattel till the County-court day. *Co.* 1 *part. Inſt: fo.* 145.

This Replevin may be returned out of the County into the Kings Bench or Common Pleas, by a Writ of *Recordari fac.*

If the goods cannot be taken by the firſt Replevin, then iſſueth forth an *Alias*, then a *Pluries*, then a *Toties quoties*, and if none of theſe will do, then a *Withernam.*

The ſuing of a *Withernam* is after this manner.

Withernam. If the Bayliff return at the next County, upon the *Toties quoties*, that he cannot replevy the Cattel, becauſe the

they are eſloyned, or that he cannot have view of the Cattel, then the Sheriff ought to make inquiry if it be true which is returned; and if it be ſo found out, he ſhall make a precept to the Bayliff in the nature of a *Withernam*, to take as many Cattel of the other party: and if the Bayliff upon the *Withernam* thus awarded return, that the other party hath not any thing, *&c.* he ſhall have an *Alias* and *Pluries*, and ſo *ad infinitum*, and hath no other remedy in this Court.

Note, that Cattel taken in *Withernam*, *ad valentiam*, that is, to the value of the Cattel that were firſt diſtrained, (and ſo detained, that the Sheriff cannot execute the *Replevin* brought for them) is to be underſtood not of the number of the Cattel firſt diſtrained, but according to their full worth and value. For otherwiſe he that bringeth the *Replevin* and *Withernam* will be deprived of his ſatisfaction he ought to have in caſe the diſtreſs were not lawfully taken.

But now to return again to the *Replevin*: if the thing diſtrained be put by the Diſtrainer in a place where the Sheriff cannot come at them to make a Replevin, he may take *Poſſe comitatus*, *viz.* the power of the County, and after demand of the Chattels, he may beat down the door or place where they are, to take them; and the owner of the goods ſhall recover double for his loſs what ever it be. *How the Diſtreſs is to be uſed.*

The Sheriff upon the complaint made to him upon taking of Cattel may command his Bayliff by word to make a Replevin of them, and it is as good as though he had made his precept to the Bayliff. *Fitz. 6. 9.*

He that hath the Replevin muſt have either a general or ſpecial property in the thing; as of goods pledged or the like; and it muſt be in him at the time of the taking, or otherwiſe he cannot have or maintain the Replevin for them.

Divers mens Cattel being taken, they may not joyn in one Replevin, but muſt have ſeveral Replevins.

A Replevin ought to be certain in ſetting forth the number and kinds of the Cattel diſtrained, otherwiſe it is not good; becauſe if it be not certain, the Sheriff cannot tell how to make deliverance of the Cattel, becauſe he knows not particularly what the Cattel are that were diſtrained.

If a man taketh and impoundeth goods, a Replevin may be of more cattel then were impounded: for if a man diſtrain Cows or Ewes, *&c.* and they have in that Pound calves or Lambs, the Plaintiff ſhall have a Replevin for them all: and by *Lit.* it was adjudged, *Mich.* 8 *E.* 3. That if a man diſtraineth and impoundeth a Sow great with Pigs in the Pound, the Owner ſhall have a Replevin for the Sow and the Pigs.

If cattel be diſtrained, and a Replevin is ſued, the Defendant doth avow for taking of them Damage feaſant, or for rents, cuſtomes, and ſervices, and are at iſſue; and after the Plaintiff is non-ſuit, or otherwiſe barred, he ſhall loſe his coſts and damages, by the Statute of 7 *H.* 6. *cap.* 5. But by the Stat. 21 *H.* 8. it is clear. *Paſch.* 14 *Mar. Dyer.* 141.

If a man by his Deed grant a Rent with clauſe of Diſtreſs, and grant further, that he ſhall keep the goods diſtrained againſt Gages and Pledges until the rent be paid, yet ſhall the Sheriff replevy the goods diſtrained; for it is againſt the nature of ſuch a Diſtreſs to be irrepleviable, and by ſuch an intention the current of Replevins ſhould be overthrown, to the hindrance of the Commonwealth. 31 *E.* 3. *Gage deliver.* 5 *Co. Inſt.* 1. *fo.* 145. *b.*

If in this caſe the taker of the cattel juſtifie the taking as in his Freehold, then this Court can proceed no further therein, but the cauſe muſt be removed by a VVrit out of the Chancery, called a *Recordari facias loquelam*, directed to the Sheriff, returnable the next term following, either into the Court of Kings Bench, or Common Pleas (to which the party pleaſeth) but they are more properly belonging to the Court of Common Pleas; and this VVrit muſt be openly read, and allowed in the ſame Court, to the end that notice may be given thereof to the Plaintiff in the Replevin, that he may appear at the day of the return thereof, and declare againſt the taker of his cattel, otherwiſe the taker will have a *retor. habend. aver.* and put him to ſue forth the ſecond deliverance, which is a great diſadvantage to the Plaintiff.

If a Replevin be ſued out, and the Defendant doth avow for taking of them Damage-feaſant, or for rents, cuſtoms, or ſervices, and are at iſſue, and after the Plaintiff is Non-ſuit, or otherwiſe barred, he ſhall loſe his coſts

costs and damages. Stat. 7 *H.* 6. *cap.* 5. 21 *H.* 8. *Pasc.* 4. *Mariæ, Dyer.* 141.

If the plaintiff in a Replevin doth declare, that the defendant had, and doth yet detain the Cattel, and the defendant doth appear, and afterwards makes default, the plaintiff shall have judgment to recover all in damages, as well the value of the Cattel, as damages for the taking of them, and his costs. *Mic.* 8 *H.* 8. *Rot.* 108. *Hughs Abridg. part.* 3. *fo.* 1708. *tit. Replegiar.*

In a Replevin, the place was omitted in the Declaration; whereupon the plaintiff demurred: It was holden by the Court to be a good cause of demurrer, for that the plaintiff is bound to take notice where the Cattel are distrained; and a man cannot distrain for a rent charge but in the day time, because the party cannot take notice where the Distress was taken; and the Law doth presume, that the Tenant of the Land, or his servants, are all the day upon the ground. *Hil.* 12 *Jac. in* C. B. *Read* and *Howes* case. *Brownl* 176.

In a Replevin the plaintiff declared, that the defendant *cepit averia* of the plaintiff *apud Occould*; and did not say, *in quodam loco, &c.* upon which the defendant did demur in Law; the question was, Whether the expressing of the place where the taking and the distraining of the Cattel was, were material in the Plaintiffs Declaration, or not: It was objected for the Defendant, That the antient form of the Register is set forth. And 35 *H.* 6. 40. Exception was taken to the Declaration, because the plaintiff in the Replevin did not alledge the place where the taking was: It was said by *Cook* Chief Justice, to which the other Justices inclined, that the effect of the suit in this case, is not the shewing of the place, but the taking of the Cattel; and it is to come on the part of the Defendant, to shew where he took the Cattel, for perhaps the plaintiff knoweth not where he took them; and if he did know the place where they were taken, yet perhaps he hath not Witnesses to prove the same, and so by this means the plaintiff should be at a mischief, and delayed in his suit; whereas a *Replevin* is *festinum remedium* to have his Cattel again, which perhaps are his Plough-Cattel. And in this case, upon the matter, the Avowant is the actor, and he best knows where he took the Cattel. And

it is no reaſon that the plaintiff miſſing the place, not being matter of ſubſtance, ſhould be prejudiced in his ſuit. Divers books were alledged, where the taking is alledged to be in a Town, without ſaying *in quodam loco*, and yet good. 4 *E.* 3. 13. 14 *E.* 3. 14. 21 *H.* 7. 23. 9 *H* 4. in a *Homine replegiando* 13. The caſe was adjourned. *Trin.* 10 *Jac. in* C. B. *Read* and *Hawes* caſe; *Godbolt* 185. See *Hob.* 16. the ſame caſe. 3 *Cro.* 896. adjudged to be ill without the certain place.

Of the Proceſs of this Court.

THe Proceſs of this Court, are either original, iſſuing out before judgment; or judicial, iſſuing out after judgment. Original is a *Diſtringas* or County-warrant, *&c.* Judicial Proceſs is only a *Fieri facias*, or *Execution*, directed to the Bayliff to levy the debt or damages, and coſt of ſuit recovered, of the goods of the defendant, or of the plaintiff if he be non-ſuited.

The Original Proceſs, *viz* *Diſtringas*, or County-warrant, is a precept iſſuing out for a debt under forty ſhillings. Its form is as followeth.

Ebor. ſſ. *I. B.* Ar. Vic. Com præd. omnibus & ſingulis Ballivis meis infra Com. præd. & deputat. ſuis, ſalutem. Mando vob. & cuilibet veſtrum quod diſtringing. *R. B.* per bona & catalla ſua infra Com. præd. Ita quod ſit et compareat prox. Comitat. meum tent. apud Caſtrum Ebor. die lunæ 10 die *I.* ad reſpondend. *I. S* in placito debti. Et quod tunc & ibidem certificet. acta veſtram in hac parte fienda. Dat. ſubſigillo Officii mei decimo quinto die *Marcii*. Anno Regni Dom. noſtri *Caroli* Secundi Dei gratia *Angliæ*, *Scotiæ*, *Franciæ*, & *Hiberniæ* Regis, fidei defenſoris, decimo quinto.

Per eundem Vic.

If the Defendant do not appear the next Court after the *Diſtringas* executed; then farther Proceſs iſſueth againſt him, *viz.* a *Duces tecum* to cauſe him to appear: If not upon the firſt *Duces tecum* he appear, you may have an *Alias Duces tecum*, and a *Pluries Duces tecum ad infinitum* until he appear, and no other remedy here. The form is thus.

I. B.

I. B. Ar. Vic. &c. Omnibus, &c. ſalutem: Vobis & cuilibet veſtrum conjunctim & diviſim mando quod ducatis vobiſcum & habeatis apud Caſtrum Ebor. &c. ad proximum Comitat. meum omnia bona & catalla *R. B.* quæ nuper virtute alius præcepti vobis prius directi, diſtrinxiſtis ad ſectam *S D.* Et quod ulterius diſtringat. prædictum *R B* per alia ſua bona & catalla in Com. prædicto, Ita quod ſit apud Caſtrum Ebor. præd. ad proximum Comitatum meum, tent. die Lunæ, &c. ad reddend. præfat *S D* in placito debit. Et habeas ibi tunc hoc præceptum. Dat. ſub ſigillo Officii mei 20 die *Junii*, Anno Regni Dom. noſtri *Caroli*, &c. decimo quarto, &c. *Ebor. ff. Duces tecum.*

If you have your *Diſtringas* or *Duces tecum* ſpecial, Then the form is thus.

I B Ar. Vic. Com. præd. omnibus & ſingulis Ballivis meis & deputat. ſuis in & per Com. præd. nec non *R S* & *T W* Ballivis meis hac vice ſpecialit. deputat. ſalutem, &c. ut ſupra. *Ebor. ff. Alit.*

Of the Writ of Juſticies.

THis Writ iſſueth out of the *Chancery*, directed to the Sheriff, giving him power to hold Plea in this Court, in actions for forty ſhillings, or above: and though it be directed to the Sheriff, yet are the ſuitors Judges. It is called a *Juſticies*, becauſe it is a *Commiſſion* (and no original) to the Sheriff to do a man juſtice and right, and though it be *quod Juſticies B.* yet the Sheriff is not Judge therein, but the ſuitors, and a Writ of falſe judgment lieth upon their erroneous judgment; and it requires no return, unleſs the action be removed by a Writ of *Recordare*, and then the Writ muſt be returned, together with the Record. *3 H. 6. 54. 7 E. 4. Br. Juſt. 3.*

Pluſieurs actions dun nature poyent eſtre joyne en un Juſticies ove ſeveral precepts, & le vicount Oyer & Determiner eux per enqueſt, ſolonque order del Common ley. Mes ceo Juſticiel ne alter le nature del Court; Car les ſuitors ſont la Judges, les pleas ne ſont de record coment que ſoit per breiſe, breiſe de Faux judgment giſt. &c. *Fitz. N. B. 86. a. b. 6 E. 4 3 35 H. 6. 5.*

The form of the Precept upon the Writ, is as followeth.

Eber. ſs. G M Ar. Vic. com. præd. omnibus & ſingulis Ballivis meis infra com. meum, & deputat. ſuis ſalutem: Virtute brevis Dom. Regis de Juſticies mihi directi, vobis & cuilibet veſtrum conjunctim & diviſim mando quod vos vel veſtrum aliquis juſticiet. I C ita quod ſit & compareat apud prox. com. meum tent. apud Caſtrum Ebor. die Jovis, &c. ad reſpondend. E L de placito debiti: & qualiter hoc præceptum fuerit execut. mihi ad prox. com. meum præd. certificeris. Dat ſub ſigillo Officii mei xxii die *Auguſti* Anno Regni Dom. noſtri *Caroli* Secundi Dei gratia *Angliæ, Scotiæ, Franciæ*, & *Hiberniæ* Regis, Fidei Defenſoris, &c. decimo tertio.

Per eund. Vic.

A Replevin.

IF any goods be taken wrongfully (as before I have more at large declared) then the party grieved may have a Replevin, which muſt be made after this manner.

Ebor. ſs. I D Ar. Vic. &c. omnibus & ſingulis Ballivis meis, &c. ſalutem: Quia G A ven. coram me, & inven. ſufficiens ſecuritatem tam de clamore ſive proſequendo, quam de averiis ſuis retor. ſi fuer. inde adjudicet. Ideo virtute Officii mei vobis & cuilibet veſtrum mando quod vos ſive aliquis veſtrum replegiari & deliberari fac. præfat. G A duas vaccas quæ H I cepit & injuſte detinet, ut dicitur. Ac etiam quod ponatis, ſive aliquis veſtrum ponat per vadios & ſalvos plegios præd. H I, ita quod ſit & compareat apud Caſtr. Ebor. ad prox. Com. meum ibidem tent. die Martis, &c. ad reſpondend. præfat. G A in placito captionis & injuſte detentionis averior. ſuor. præd. Et qualit. hoc præcept. &c. ut ſupra.

And if the Cattel be not delivered by virtue of the ſaid Replevin, then the Plaintiff may have an *Alias* Replevin, with theſe words, *vel cauſam mihi ſignific.* which Replevin muſt be made after this manner.

I G Miles, &c. omnibus & ſingulis Ballivis meis, &c. ſalutem. Quia *G A* ven. coram me, & invenit ſufficientem ſecuritatem tam de clamore ſuo proſequendo, quam de averiis ſuis retor. ſi retor. inde adjudicetur; Ideo virtute Officii mei, vobis & cuilibet veſtrum conjunctim & diviſim mando, ſicut alias vobis mandavi, quod vos ſive aliquis veſtrum ſine dilatione eidem *H I* repleg. & deliberari fac. duas vaccas quæ *H I* cepit & injuſte detinet (ut dicit.) vel cauſam mihi ſignificet. vel unus veſtrum ſignificet. quare mandata mea vobis inde directa exequi noluiſti aut non potuiſti: & quod ponat, &c. *ut in al.* *Ebor. ſſ. Alias Replevin.*

And if the Cattel be not delivered upon this Replevin, nor ſhew ſufficient cauſe why he did not; then the party may have a *Pluries* Replevin, *vel cauſam mihi ſignific.* which muſt be made *verbatim*, as the *Alias* Replevin was made; and if return be made upon any of theſe Replevins, *quod averia elongat. ſunt ad loca ſibi ignot. ita quod averia ill' præſ. G A non potuit deliberar.* then the plaintiff may have a *Withernam*, which muſt be made in this manner.

I G Miles, &c. omnibus & ſingulis Ballivis meis, &c. ſalutem. Quia *G A* ven. coram me, &c. (ſicut prius) vobis & cuilibet veſtrum mando, ſicut pluries vobis mandavi, quod vos ſeu aliquis veſtrum replegiarum & deliberari fac. præfat. *G A* duas vaccas quæ *H I* cepit & injuſte detinuit, & adhuc injuſte detinet (ut dicit.) Et quod vos ſuper diverſa mea præcepta pro repleg. fieri vobis directa certificet, quod anima prædicta elongat. ſunt ad loca tibi incognit. ita quod viſum earundem habere non potueritis: Ideo vobis & cuilibet veſtrum mando quod vos ſeu aliquis veſtr. capiat in Withernam catalla ad valentiam prædict. duarum vaccarum de catallis ipſius *H I* deliberand. præfat. *G A* pro duabus vaccis prædictis elongat. Ac etiam quod pon. per Vadios & ſalvos plegios præd. *H I* quod ſit & compareat apud, &c. *ut in al. Replevin.* *Ebor. ſſ. Withernam.*

G M Ar. omnibus, &c. ſalutem. Quia apud Cur. Com. mei tent. apud Caſtrum Ebor. die lunæ, &c. anno, &c. mihi retor. feciſtis, quod virtute præcepti mei vob. ſæpe direct. veniſti ad parc. *H H* ad locum ubi duo vaccæ prædict. impare. *Ebor. ſſ. Alias Capias in Withernam.*

imparcat. & detent. fuer. per præfat. *H H* & iste due vacc. elongat fuer. ex parco prædict. ad loca vob. incognita, per præfat. *H H* ita quod duas vacc. præd. non potueritis replegiare: ideo considerat. est per Cur. quod averia præd. *H H* capientur in *Withernam* ad valenc. &c. Et iste præd aver. deliber. præfat. *G A* salvo & secure custodiri quousq; præd. *G A* aver. præd secundum legem potest replegiare, & secundum mandat. mei præd. Ideo vob. & cuilibet vestrum conjunctim & divisim mando quod capiatis, seu, &c. aver. præd. *H H* ad valenc. in *Withernam*, & ea præd *G A* deliberari causatis, seu, &c. salve & secure custodiri, usque, &c. Et quod distringatis, seu, &c. præd. *H H* ita quod sit apud Castrum Ebor. ad prox. Cur. Comitat mei tent &c. ad respondendum eidem *G A* de præd placito prædicto, & respons. mandati mei cognit. facietis &c. apud prox. Cur. Dat. sub sigillo Officii mei, anno, &c.

Nota. Note, that when a Replevin is granted, there must be a Bond taken of him to whom it is granted, or of some other for him, with one or two sureties, to appear at the next Court, and to prosecute his suit with effect, or else it may be prejudicial both to the grantor of the Replevin, and to the Executioner thereof; and the form of that Bond and condition thereof, is this.

An Obligation upon a Replevin. Noverint universi per præsentes nos *A G* de *S* in Com. Ebor. Gen & *I B* de eadem Villa & Com. Gen. teneri & firmiter obligari *G M* Ar. Vic. Com. præd. in Centum libris legalis monet. *Angliæ*, solvend. eidem *G M*, aut suo certo Attornato, Executoribus, Administratoribus vel Assign. suis: ad quam quidem solutionem bene & fideliter faciend. obligamus nos & utrumque nostrum, Heredes, Executores, & Administratores nostros, pro toto & in solido, firmiter per præsentes. Sigillis nostris sigillat. Dat. Vicesimo die *Junii*, anno Regni Dom. *Caroli* Secundi Dei gratia *Angliæ*, *Scotiæ*, *Franciæ*, & *Hiberniæ*, &c. Annoque Domini 1661.

The Condition. The Condition of this Obligation is such, That if *G A* do appear at my next County-court to be holden for the County of *Y* at the Castle of *Y* on Munday the, *&c.* next and do prosecute there with effect his suit which he hath

commen-

commenced againſt *H H*, for the taking and unjuſt detaining of two Kine of the goods of him the ſaid *G A*, and to make return of the goods, if return of the ſame ſhall be adjudged: That then this preſent Obligation ſhall be void, and of none effect, *&c.*

The Condition, *&c.* that whereas *G A* hath obtained from the above-named Sheriff, a Replevin for the delivering of two Kine, and other goods diſtrained, and detained by *H H*, and others; if therefore the ſaid *G A* do proſecute his ſuit upon the ſaid Replevin with effect, and do make return of the goods, if return thereof ſhall be adjudged; and alſo to ſave and keep harmleſs the ſaid Sheriff, by reaſon of the ſaid Replevin to him granted, as aforeſaid, That then this preſent Obligation to be void, *&c.* *Or thus.*

A Tolt.

TOlt, comes from the Latine word *tollo*, *viz.* to take away: It is a precept by which a cauſe depending in a *Weapentake*, or *Hundred-Court*, or other inferiour Court-Baron, may be from thence removed into this Court: The form is this.

REX *I B* Ar. Vic. Com. prædict. Seneſcallo, tum Ballivo Hundredi de *H*, ſalutem. Informatus ſum quod favorabiles, & non equales eſtis in placito quodam coram vob. in Curia veſtra dependent. inter *W A* Quær. & *R A* Def. Ideo ex parte Dom. Regis, & virtute Officii mei, vob. & cuilibet veſtrum mando, quod tollatis placitum ſic dependent. coram vob. in Cur. veſtra inter partes præd. ita quod habeam eundem placitum apud prox. Cur. Comitat. mei tent. apud Caſtrum Ebor. die lunæ, &c. in eodem ſtatu & conditione, ſicut nunc coram vob. dependet; & quod noticiam datis partibus prædictis de eodem die placitum prædictum proſequi, ſicut juſtitiæ & equo appertinebit; & quod ab ulteriori proſecutione placiti præd. in Cur. veſtram omnino ſuperſed. & ultra in illo non proced. Et hoc, &c. Dat. ſub ſigillo Officii mei, decimo die Julii, anno, &c. *Ebor. ſs.*

Apud

Hundred. de H ss. Retor. Placitum.

Apud Cur. Baron. tent. apud W infra Hundred. de pred. die Mercurii ultimo die *Julii*, anno Regni Regis *roli*, &c. tempore I B Ar. Vic. Comitat. pred.

W A Queritur de R M defend. de placito debiti, de viginti solid.

Virtute istius precepti mihi direct. Recordari & causavimus placitum depend coram nob. in Cur. nostr. inter partes infra nominat. & in eodem statu & conditione, sicut nunc pendet. & partibus pred. prefiximus & dimus notitiam, quod sint apud Cur Comitat. infra scri die & loco infra men placitum predictum prosequi, sic justicie equitatiq; pertinebit, prout istud preceptum exigit & requiret. In cujus rei testimonium posuimus m & sigill. &c

I S Steward.
T L Bayliff.

Judicial Process.

JUdicial Process issue out after judgment, either by default, or *Nihil dicit* against the Defendant, or non-suit against the Plaintiff. The form of Judicial Process, or *Fieri facias*, is this.

Ebor. ss.

I B Ar. Vic. &c. omnibus & singulis Ballivis, &c salutem. Vobis & cuilibet vestrum conjunctim & divisim mando, quod de bonis & catallis T B vos vel aliquis vestrum fieri fac. tam quoddam debitum triginti solidorum que H S in Cur. Comitat. mei recuperavit versus eum, quam tres decem solid. & decem denar. que prefat. H S in eandem Cur. adjudicat. fuer. & pro misis & custag. circa sectam suam in ea parte expend. Et habeatis denarius apud Castrum Ebor. Cur. Comitat. mei ibi tent. die lune, &c. ad reddend. prefat. H S debti & misis pred. unde convict. est. Et hoc, &c. Dat. sub sigillo Officii mei, &c.

Ebor. ss. Fieri facias cont. Executor.

I B Ar. Vic. &c. omnibus & singulis Ballivis, &c. salutem. Vobis & cuilibet vestrum conjunctim & divisim mando quod vos vel aliquis vestrum levar. de bonis & catallis que nuper fuer. W W defunct. tempore mortis sue, & nunc reman. in manibus I W Executor. testamenti prefat. W W, & non Administrand. tam debit. quadraginta

...inta librarum quod T L in Cur. Com. mei virtute brevis
...le Juſtic. verſus eum recuperavit, quam viginti ſolid. qui
...ed. dpred. T L in eadem Cur. adjudicat. fuer. pro damnis &
...egis miſſis q ...e ſuſtinuit occaſione detent. debit. pred. ſi pre-
...at. I W Executor. teſtamenti pred. W W tanta bona ſeu
...i, dcatalla in manibus ſuis habeat que fuer. pred. W W tempo-
...'e mortis ſue ſufficient. ad ſatisfaciend. debit & dam.
& cpred Si non habeat tanta bona ſeu catalla in manibus ſu- *De bonis*
... noſis que fuer. prefat. W W tempore mortis ſue ſufficient. *propriis.*
...ondmd ſatisfaciend. pred. T L de debito & damnis predictis;
...s & quod tunc vos ſeu aliquis veſtrum levar. de bonis & ca-
... ſe catallis propriis prefat. I W dam. & miſſa pred. Ita quod
...t. ſi habeam eandem pecuniam apud prox. Cur. Comitat. mei
...im etent. apud Caſtr. Ebor. &c. ad reddend. prefat. T L de
...s mdebit. & dam. pred. de quibus convict. eſt. Et hoc, &c.
Dat. ſub ſigillo Officii mei, &c.

I B Ar. &c. omnibus & ſingulis Ballivis, &c. ſalutem. *Ebor. ſs.*
Vobis & cuilibet veſtr. conjunctim & diviſim mando quod *Fieri fa-*
de bonis & catallis T O levari fac. viginti ſolid. quos S D *cias pro*
in Cur. Com. mei (ſecund. Statut. in eo caſu proviſ.) pro *miſſis.*
by dmiſſis & damnis adjudicat. fuer. que ille ſuſtinuit in de-
n ſuſenſione ſua facienda in quodam placito debiti, quod pred.
or S D verſus pred. T O nuper product. quia prefat. T O ſe-
ctam ſuam non proſecut. eſt, ſed de eo convict. ita quod
habeam eandem pecuniam apud prox. Cur. Com. mei
ſal tent. apud Caſtr. Ebor. die lune, &c. prox. ad ſatisfaciend.
man pred. S D de miſſis & damnis predictis. Et hoc, &c. Dat.
trum ſub ſigillo Officii mei, &c.
e H

...tre I B Ar. &c. omnibus, &c. ſalutem. Vobis & cuilibet ve- *Fieri facia-*
...dem ſtrum conjunctim & diviſim mando, quod de bonis & ca- *as poſt ſci-*
...ctam tallis que nuper fuer. I B Arm. & nunc in manibus I R *re facias*
Ca Gen. & A uxoris ejus Adminiſtratricis bonorum et catallo- *verſ. Ad-*
. ad rum que fuerunt predicti I B tempore mortis ſue exiſtend. *miniſtra-*
. eſt. Adminiſtrand. fie i cauſatis, tam cert. debit. 41 que I W *torem ſu-*
recuperaverit verſus predict. I B in curia Comit. mei, *per Ver-*
quam 30 s que ei predict. I W per eandem curiam adju- *dict. pri-*
...alu- dicat. fuerunt pro damnis et miſſis que habuit (occaſione *us habit.*
...nan detentionis debiti illius) virtute brevis de Juſticies, ita quod *verſ. inte-*
...eal- habeam pecuniam predictam apud prox. meam Cur. Co- *ſtatum.*
...ſue, mitat. mei tent. apud Caſtrum Eborum, &c. ad reddend.
...ent prefat.
...ra-
...nta

prefat. I W debit. et dam. predict. de quibus predict. convict. fuit. Ideo conſideratum erat in Curiam meam andem quod predict. I W Executionem haberet ver predictum I R et A uxorem ejus, de debito et dam predictis, de bonis et catallis predictis, per defaltam dict. I R, *&c.* Et hoc, *&c.* Dat. ſub ſigillo Officii mei, *&*

Venditionis exponas.

I B Ar. *&c.* omnibus et ſingulis Ballivis mei, *&c.* ſa tem. Vob. et cuilibet veſtrum conjunctim et diviſim m do, ſpecialiter F P Ballivo libertatis de S et Deputati ſuis, qui habent bona capta ſuper Executionem execu hac Cur. quod ill. vigint. vervices, Anglice *Weather-she* quarum unamquemq; vos appretiar. ſac. ad oct. ſolid. bonis I C Ar, que ceperit, et modo in manibus veſtris man. intendit. pro defectu Emptorum, ſicut vos re Cur. mea vend. expon. Et denar. inde qui in toto att gunt ad acto libr. habeatis ad proxim. Comitat. me apud Caſtr. Ebor. tent. die lune xiii die *Maii* prox. reddend. W G qui eidem W G in Cur. mea adjudicat. er. pro damnis ſuis que habuit occaſione cujuſd. tranſ ſibi per eund. I C illat. unde convict. eſt: Et hoc, *&* Dat. ſub ſigillo Officii mei xviii die *Octob.* Anno Reg Dom. noſtri *Caroli* Secundi Dei gratia *Angliæ*, *Scotiæ* *Franciæ*, et *Hiberniæ* Rex, Fidei defenſor. *&c.*

Per exnd. Vic.

Of a Scire facias.

IF a *Fieri facias* do not iſſue out within a year and a d after judgment entred, it cannot be had till there be *Scire facias* firſt ſued out to ſummon the Defendant ſhew cauſe why Execution ſhould not be done; and now he neglect to anſwer, or cannot be found to be ſum moned, then a ſecond judgment ſhall be given, that exe cution be done of the firſt judgment.

If judgment be given againſt a Teſtaror, albeit it b within a year after judgment had, yet there muſt firſt i ſue out a *Scire facias* againſt the Executor or Adminiſtra tor (before execution) to ſhew cauſe why it ſhould no be had.

Or if a man recover againſt a Feme ſole, and ſhe be come covert, viz. take a Huſband within the year and th day

day; then he that ſhall recover muſt have a *Scire facias* againſt the Husband, elſe he cannot charge the Husband.

Scire fac. poſt annum & diem.

JB Ar. Vic. *&c.* ſalutem. Cum W F nuper in Cur. com. prædict. per Judic. in dictam Cur. com. præd. tent. apud Caſtr. Ebor. die lunæ decimo die *February*, ann. Dom. mill. excenteſimo quinquageſimo quarto, coram ſectat. ejuſdem Cur. recuperavit verſus G L tam quoddam debitum triginr. et duor. ſolidor. qui idem W F in eadem cur. recuperavit verſus eum quam treſdec. ſolid. et decem denar. qui eidem W F in cur. pred. adjudicat. fuer. pro damnis ſuis quæ ſuſtinuit occaſione detent. debiti illius, unde convict. eſt, ſicut per proceſſ. inde in eadem cur. remanen. manifeſte liquet executio tamen prædict. judicii reſtat. faciend. prout per inſinuationem præfat. W F informatus ſum: Et quia volo quod ea quæ fuerunt in dicta cur. rite acta ſint debit. Judic. demand Ideo vobis mando quod per probos et legales honeſtes Balliv. mei Scire fac. dict. G L quod ſit apud caſtr. Ebor. ad prox. com. mei ibidem tenend. die lunæ tertio die *Maii* prox. futur. ad oſtend. ſi quid habeat dicere, vel non, quare præfat. W F habere non debeat et levar. fac, ſive execut. verſus eum, ſecundum vim form. et effect. ejuſdem recuperat. ſi ſibi videtur expediri: et habeatis ibi tunc nomina eor. per quos Scire fac. et hoc præcept. Dat. ſub ſigillo Offic. mei quarto die *Apr.* Anno Regis *Caroli* Secundi *Angliæ*, *&c.* xiiii. *Ebor. ſs.*

Scire fac. verſus Executor. ſuper judicio verſus Teſtatorem.

JB *Ar.* Vic. *&c.* ſalutem. Cum N N nuper in cur. com. præd. tent. apud caſtr. Ebor. die lunæ, *&c.* coram tunc Vic. dicti com. præd. judic. ejuſd. cur. recuper. verſus H N tam quoddam deb. quadragint. librar. quam vigint. et duos ſolid. et duos denar. pro damnis ſuis quæ ſuſtinuit cauſione detent. deb. illius, unde convictus eſt, ſicut per proceſſ. reſiden. in eadem cur. liquet. Ac cum executio Judic. adhuc reſtat. faciend. et præd. H N poſt reddic. Judicii præd. mortuus eſt, prout per intimatione dicti N N ſum informatus: Et quia *Ebor. ſs.*

volo

volo quod ea quæ rite acta sunt in dictam cur. debit. execu demandar. vobis mando quod per probos & legales hom nes dict. Com. Scire fac. F N Executrici testam. dict. H N quod sit ad prox. Com. meum tenend. pro dict. Com. ap Castr. Ebor. die lunæ, &c. ad ostend. si quid habeat v sciat dicere, quare præfat. N N executionem suam versu eum habere non debeat de debito & damnis præd. de bon & catallis quæ fuer. dict. H N tempore mortis sue levan & ulterius agere & recipere, &c. Dat. sub sigillo Offic mei, &c.

Scire fac. after Marriage.

Ebor. ss. I B Ar. Vic. &c. salutem: Cum A B nuper in cur. com mei tent. apud castr. &c coram sectator. ejusdem cur. recu peravit versus C D tam quoddam debit. quadragint. libr quam quadragint. solidos qui eidem A B in eadem cur adjudicat. fuer. pro missis & custag. suis quæ habuit occas one detentionis debiti illius, unde convict. est, sicut per pro cess. inde in eadem cur. coram dict. sectat. remanend. sati liquet: Executio tamen dict. Judic. restat. faciend. E præd. A B post reddic. judic. præd. cepit in virum suum T R prout per alligat. dict. A B accepi. Et quia vol quod ea quæ rite acta sunt debit. execut. demand. vobi mando quod per probis & legales homines Balliv. vestr Scire fac. & notum fac. eidem C D quod sit ad prox. com mei tenend. apud, &c. ad ostend. si quid habeat, vel al quid sicut pro se dicere, vel non, quare præd. T R Execut. judic. prædict. non habeat de debito & damnis præd. se cundum vim & effect. recuperationis præd. si sibi videtur expedire: Et habeat ibi nomina eor. per quos ei Scire fac. Et hoc præceptum, &c. Dat. sub sigillo Officii me quarto die *Junii*, anno Regni Dom. nostri *Caroli* Secund Dei gratia *Angliæ*, *Scotiæ*, *Franciæ*, & *Hiberniæ* Regis, Fi dei Defensoris, &c. xiiii.

Venire fac. Jurator.

Ebor. ss. I B Ar. Vic. com. præd. Ballivo Hundred. de O, sive de putat. suo, salutem: Vobis & cuilibet vestrum mando quod Venire fac. coram legal. Seneschal. meo per me ap punctuat. pro com. meo tenend. apud castr. Ebor. die lunæ,

June, &c. omnes illas ſeparales perſonas in pannella huic annex. mentionat. ad triand. tales ſeparales exitus inter partes & partes quales adtunc & ibidem illis præcept. fuerint. Et hoc nullatenus omittat. ſicut quilibet veſtrum contrar. ad pericula veſtra reſpond. una cum hoc præcept. Dat. ſub ſigillo Officii mei, *&c.*

Or thus.

IB *Ar. &c.* Hæc ſunt ad requirend. te dictum Ballivum quod venire fac. duodecim probos et legales homines de Balliva tua, quod ſint et compareant ad prox. Cur. Com. mei tenend. apud Caſtr. Ebor. die lune, *&c.* per nonam horam ante meridiem, ad triand. exit. junct. inter A B quer. et C D def. de placito debiti, *(or as the caſe is)* Et hoc dat. ſub ſigillo Offic. mei, *&c.* *Ebor. ſs.*

And if a full Jury do not appear, then as many as make default ſhall be amerced, and a Decem tales *awarded to ſummon ten more, as followeth, and the ſame day given to the firſt Jury.*

Decem tales.

IB Ar. &c. Hæc ſunt ad requirend. te præfat. Ballivum, quod Venire fac. decem plures probos & legales homines Balliv. tui, quod ſint ad prox. Com. meum tenend. apud Caſtr. Ebor. die lune, &c. cum aliis, qui ſibi adtunc & ibidem aſſocientur, ad triand. quend. Exit. junct. inter *A B* Quer. & *C D* Defend. de placito debiti, *&c.* *Ebor. ſs.*

And as many of theſe as make default ſhall be amerced, and then an Octo tales *ſhall be awarded; and if neceſſity require it afterwards, a* Sex tales.

Subpœna, *or a Warrant to ſummon Witneſſes.*

IB Ar. Vic. Com. præd. *I B, I G,* &c. ſalutem: Vobis & cuilibet veſtrum mando, quod (omnibus aliis prætermiſſis & excuſatione quacunque ceſſante) vos & quilibet veſtrum ſitis & perſonalit. compareatis ad prox. Com. mei tenend. apud Caſtr. Ebor. die lune decimo die *Junii* *Ebor. ſs.*

prox. futur. ad teſtificand. veritatem ſecund. notitiam veſtram in quadam actione ibidem depend. inter *A B* Quer. & *C D* Def. de placito debiti: Et hoc nullatenus omittat. ſub forisfac. cujuſlibet veſtrum cent. librar. Et hoc, &c. Dat. ſub ſigillo Officii mei, &c.

A Liberate *to deliver goods taken upon Original or mean Proceſs.*

Ebor. ſs. I *B* Ar. Vic. Com. præd. omnibus & ſingulis Ballivis meis in & per toto Com. meum, & eorum deputat. necnon *A B*, ſalutem: Cum *S U* comparuit per Attorn. ſuum in hac Cur. ad reſpondend. *W N* de placito debiti: Ideo hæ ſunt ad volend. & requirend. vos immediate ſuper viſum hujus, deliberare, ſive deliberari faciend. *S U* duas vaccas de bonis dict. *S U* quæ vos diſtrinxiſtis & cuſtodiris virtute Warrant. mei ab hac Cur. direct. ad ſect. præfat. *W N*: & hoc non omittat, ſicut contrar. reſpond. Dat. ſub ſigillo Offic. mei, &c.

A Precept upon Proclamation.

Ebor. ſs. I *B* Ar. Vic. &c. Ballivo Hundred. de *Biet* deputat. ſuis ſalutem: Virtute Proclamat. ſuper exigi fac. mihi directo vobis et cuilibet veſtrum mando, quod vos ſive aliquis veſtrum duas ſeparales Proclamat. faciat. un. quar. faciend. ad general. quart. Seſſion pacis tenend. pro le Northriding Com. Ebor et alter. faciend apud oſtium Eccleſiæ Parochial. poſt Celebrat. Divin. Servic. ubi ſeparal. perſon. ſubſcript. inhabitant. quod ii et eor. quilibet corpora eor. reddant mihi Vic. Com. prædict. ubi Exig. fac. currit. ad reſpondend. perſon. ad cujus ſectam Exigi fac. verſus eos eſt: Et hoc non omittat ad periculam veſtram. Dat. ſub ſigillo Offic. mei xxii die *Aug.* Anno Regis Caroli Secundi *Angliæ, &c.* xiiii.

At the Election of the Coroner, he is to be ſworn in Court by the County-Clark, for the due execution of his Office. In this manner t

You ſhall ſwear, that you well and truly ſhall ſerve our

Soveraign Lord the King in the Office of a Coroner; and as one of his Majesties Coroners of the County of *Y.* and there- in you shall truly and diligently do, and accomplish all and every thing and things appertaining to your Office, after the best of your cunning, wit, and power, both for the profit and good of the Inhabitants within the said County, taking such Fees as you ought to take by the Laws and Statutes of this Kingdome, and not otherwise; so help you God.

The Oath of an Attorney in this Court.

YOu shall do no falshood, nor consent to any to be done in the Court; and if you know of any to be done, you shall give knowledge thereof to the Steward, or County-clerk, that the same may be reformed: you shall delay no man for lucre, or malice: you shall encrease no fees, but shall be content with the old fees accustomed: you shall suffer no forreign or illegal suits to hurt any man, nor plead or cause to be pleaded any forreign plea, but such as shall stand with the order of the Law and your conscience: you shall seal all such process as you shall sue out of this Court with the seal thereof: you shall not procure to be sued any false suit, nor give aid nor consent to the same. And lastly, you shall use your self in the office of an Attorney within this Court according to your learning and discretion: so help you God.

A Warrant of Attorney.

To S D *one of the Attorneys of the County-Court for the County of* Y. *&c.*

A B do hereby desire you, and do give you full power, license and authority, to appear for me, and for, *&c.* in our said Court, on Monday, *&c.* in an action of debt, for, *&c.* at the suit of *E D* upon an obligation, conditioned for the payment of, *&c.* in which said obligation I stand bound as principal: and this shall be your sufficient warrant in that behalf. In witness, *&c.*

Bond for Appearance.

It hath been formerly used to take a Bond of the Defendant for his appearance in this Court: the form of the condition is thus.

THe condition, &c. That if the above-bounden *E T* appear at the next County-court to be holden at the Castle of *Y*, on Monday the first day of *January* next, answer *H B* in a plea of debt, and do also stand to such Order as the Court in that behalf shall set down, and judge according to Law; That then this present Obligation to be void, &c.

A sale of goods to the Plaintiff levied upon a Fieri facias, by the Sheriffs Bailiff.

KNow all men by these presents, That I G B of *Skipton* in *Craven*, Bailiff of the Liberty or Weapentake of *Slainliffe* in the County of Y. by virtue of a precept of *Fieri facias* from the Sheriff to me directed, have levied of the goods and chattels of, &c. the sum of, &c. for of a debt due to, *&c.* levied by virtue of this precept to his use. In full satisfaction of which said sum of, *&c.* I do by virtue of the Precept or Warrant to me directed aforesaid, assign, sell, and set over unto the said, *&c.* the goods and chattels in the appraisement hereto annexed nominated at the rate of, *&c.* *To have, &c.* the said goods and chattels, to him, his Heirs, Executors, and Administrators, as his or their own proper goods and chattels as fully and absolutely as I the said G B might, could or ought to do by force and virtue of the said precept or appraisement, or otherwise howsoever. In witness whereof I have hereunto set my hand and seal, the sixteenth day of *August*, in the year of our Lord, 1658.

A Deputation for a Bailiff of an Hundred.

I B Esquire, sheriff of the County of Y. To all Christian people to whom these presents doth or may concern, greeting. Know ye, that I the said sheriff have deputed, constituted, and appointed R D of A in, *&c.* my lawful Bailiff and Deputy within the Hundred of B in the *North-riding*, in the County of Y aforesaid, to have and execute the said Office of Bailiff within the said Hundred, or elsewhere within the said County of Y, as occasion shall require it, during my pleasure only, and no longer; and to receive and take to my use all Fees, as well for Distress, Attachment, and Perquisites of Courts, and other profits due and accustomed whatsoever to the said Bailiwick belonging, or in any wise appertaining. And whatsoever my said Bailiff shall lawfully execute and do in his said Office, I do hereby warrant, ratifie and confirm, as my own act and deed. In witness whereof I have hereunto set the seal of my Office the seventeenth day of *August*, 1658.

The Fees,

The Fees to the County-Clerk.

	l	*s*	*d*
For every *Distringas*	00	00	08
Every special *Distringas*	00	01	08
Duces tecum	00	00	08
A special *Duces tecum*	00	01	08
The Writ of *Justicies*	00	02	06
The Precept upon the Writ of *Justicies*	00	02	04
A special Precept upon the Writ of *Justicies*	00	04	04
A *Replevin*	00	02	04
A special *Replevin*	00	05	04
The Bond upon the *Replevin*	00	01	00
Subpœna for Witnesses	00	00	08
Venire facias	00	02	00
Habeas corpora	00	02	00
Fieri facias	00	02	00
Capias in Withernam	00	05	04
Scire facias	00	02	00

Tolt	00	01	
Precept upon on *Accedas ad curiam*	00	02	
Superſedeas	00	02	
Procedendo	00	02	
Warrant of Attorney upon every *Diſtringas*	00	00	
Warrant of Attorney upon a *Juſticies*	00	00	
Entring Eſſoynes for every name	00	00	
Entring Imparlance	00	01	
Copying the Declaration	00	01	
Allowing the anſwer	00	01	
Copying the anſwer	00	01	
Allowing the Replication	00	01	
And for copying the Replication, and allowing the Joynder, *&c.* and ſo of the reſt	00	02	
Entring a Rule	00	00	
Entring a Default by *Nihil dicit*	00	00	
Entring a Non-ſuit	00	00	
Dividing a Plaint, for every name	00	00	
Entring Judgment	00	02	
Tranſcript upon a Plaint	00	01	
Tranſcript upon a Writ of *Juſticies*	00	03	
Allowing a *Recordare*	00	04	
Allowing a *Pone*	00	04	
Allowing a Writ of *Falſe Judgment*	00	05	

Fees to the Attorney.

For drawing every Declaration	00	01	
Drawing every anſwer	00	01	
Drawing the Replication	00	01	
Drawing Rejoynder	00	01	
Drawing Sur-rejoynder	00	01	
For every Court day, wherein he proceeds in the action allowed as his Fee	00	02	

Fees to the Bayliff for executing of Proceſs.

For executing a *Diſtringas* of the Plaintiff	00	00	
And of the Defendant	00	00	
A *Duces tecum* of the Plaintiff	00	00	
and of the Defendant	00	00	
A *Juſticies* of the Plaintiff	00	01	

and of the Defendant	00	02	00
A Replevin of the Plaintiff	00	02	00
A *Venire facias*	00	02	00
If tryed for the *Habeas corpora*	00	02	00
A *Fieri facias*	00	02	00
A *Scire facias*	00	02	00

The Order of the Judges of Assize at York, *the* 24 *day of* July 1654. *concerning Essoins illegally returned into this Court.*

WHereas of late Judgments have been surreptitiously obtained in this Court, by reason of Essoins unduly brought into the Court, by Bayliffs or their Deputies, and others, after attachment of goods for appearance, which pretended Essoins being afterwards disavowed by the defendant, have occasioned sundry complaints and suits, when the Defendants goods were taken in execution: for preventing whereof, it is ordered upon advice and consultation had with the Judges of *Assize* at *Y.* this day, that henceforth no common Essoin shall be entred and allowed by the Court to save a default, unless it be warranted in writing, under the proper hand-writing, or under the hand, seal, or mark of the Defendant, thereby specially authorizing the party being the Essoiner to cast such Essoin for him, and in his name; for the truth of which subscription, or sealing, the same Essoin is to be sworn in open Court, and no Essoin is to be admitted, or received from henceforth, being not affirmed, and sworn unto, and so entred upon the back of the Warrant of attachment, which is to remain upon the file amongst the Rolls or proceedings of the Court: and if any other person (not being a Bayliff) shall be the Essoiner, he is to bring the like Warrant from the Defendant in writing as is aforesaid, and be sworn for the truth thereof, which is to remain in Court as aforesaid: And no judgment shall be given where there is no other appearance but an Essoin; unless the Essoin shall appear to be warranted as aforesaid.

Nota. *To swear to warrant Essoyns in this Court is contrary to the Statute of* Marlbridge, cap. 19. *which saith,* De essoniis autem provisum est, quod in Com. &c. nullus habeat necesse jurare pro Essonio suo warrantizando.

Of the Nature and Return of those Writs that do remove Actions out of this Court into Superiour Courts.

WRits removing suits out of this Court, may be without shewing cause in the Writ, if the remove be by the Plaintiff; but not without shewing good cause, if it be by the Defendant: as, that the suit is for Charters of Land, or for Inheritance, or for Free-hold of Land, or any titles of Land, or actions touching life, or actions to cause one to render an accompt, or trespass *vi & armis*, all which are not within the cognizance of the Court. Or that he before whom the action depends is a favourer of him that is on the other side; or that the Defendant avoweth for damage-feasant, and the Plaintiff doth justifie for common of pasture, which is a plea touching Free-hold, and therefore the prosecution in this Court ceaseth.

First of a Recordare facias loquelam.

Recordare facias loquelam. A *Recordare* is a Writ issuing out of the Chancery, directed to the Sheriff, commanding him to send a plaint that is before him in his County-court, without Writ of *Justicies*, into the Court of *Kings-Bench*, or *Common-Pleas*, to the end that the cause may be there determined. And the Sheriff is hereupon to summon the other party to be in that Court (into which the plaint is to be sent) at a day certain: and of all this he is to make a certificate under his own seal, and the seals of four suitors of the same Court.

The Return. Virtute hujus brevis mihi direct. ad Comitat. meum Ebor. tent. apud Castr. Ebor. infrascript. (tali die & anno) Recordari feci loquelam de qua interius fit mention. quæ patet in Scedul. huic brevi annexa, & illud Record. coram Justi-

Juſticiar. infraſcript. habeo ad diem & locam infra content. ſub ſigillo mei, & ſigill. W R F & E quatuor proborum & legalium Militum ejuſdem Com. ex illis qui Recordo ill. interfuerunt,& partibus infraſcript. eundem diem prefixi, quod tunc ſint ibi in loquel. illa prout juſtum fuerit proceſſur. ſicut interius mihi præcipitur.

Reſid. execut. hujus brevis patet in quadam Scedul. huic brevi annex.

Ad Com. mei tent. apud Caſtr. Ebor. in com. prædict. (tali die & annum) coram I R M L I S & S D, quatuor ſectator. dict. cur. inter al. continetur. *The Schedule.*

R S Quæritur verſus B W de placito debiti *(or as the case is)* I B Ar. Vic. Pleg. de proſequend. I S I D In cujus teſtimonium, &c. *Ebor. ſſ. The Plea.*

Virtute hujus brevis Recordari feci loquel. quæ eſt in Com. meo ſine brevi Domini Regis inter A B & C D de averiis ipſius A B capt.& injuſte detent. ut dicitur, & Record. illud coram Juſticiar. infraſcript. ad diem & locum infraſcript. habeo, ſub ſigillo meo & ſigillis E B S D R B & I L, quatuor legalium Militum com. mei ex illis qui Recordo ill. interfuerunt,prout patet in quadam Scedul. huic brevi annex. ſecundum exigen. hujus brevis. *Or thus.*

Ad Com. meum tent. *(as before.)*
Virtute hujus brevis in forma infraſcript. ad cur. infraſcript. veni, & in ill. plena cur. Recordari feci loquel. infraſcript. & Record. illud,prout patet in Scedul. huic brevi annex. habeo coram Juſtic. infraſcript. ad die & locum infra content. & partibus infraſcript. eundem die præfixi, quod tunc ſint ibi in loquela illa prout juſtum fuerit proceſſur. ſicut interius mihi præcipitur.

A B Quæritur verſus C D de placito captionis averior. ipſius A B; in cujus rei teſtimonium E B S D I W & I R, quatuor legales homines ex illis qui Record. ill. interfuerunt in plena cur. apud Caſtr. Ebor. in com. prædict. x die *Aug.* anno, &c. eidem Recordo ſigilla ſua ſeparalit. appoſuer. die & anno ſupradict. *The Schedule.*

Note,

Nota. Note, that though the Plea be diſcontinued in the County, yet the Plaintiff or Defendant may remove the plaint into the Common-Pleas or Kings-Bench by a *Recordare*, *&c.* and it ſhall be good, and he ſhall declare on the ſame. *And* the Court ſhall hold Plea upon the ſame plaint; for if the plaint be continued in the County, and iſſue joyned upon it, yet nothing ſhall be removed but only the plaint, and in the Common Pleas the Plaintiff may declare anew, *&c.*

Likewiſe if the *Recordare* bear date before the plaint was entred in the County, it is good enough, and the Record is well removed.

The nature of a Pone.

A *Pone* doth nothing differ from a *Recordare*, but that a *Pone* is alwayes to remove ſuch ſuits as are before the Sheriff by Writ of *Juſticies*, and not by plaint only; but the *Recordare* is to remove the ſuit that is by plaint only without Writ. *F. N. B.* 70. 11.

The Return. Virtute hujus brevis mihi direct. poſui coram Juſticiar. *&c.* de Banco apud Weſtm. *Joquel.* quæ eſt in Com. me per breve Domini Regis, de juſtic. inter *A B* & *C D* de placito debiti, ut dicitur, prout patet in quadam Sceduli huic brevi annex. *&c.*

The Schedule. *Ad* Com. meum tent. apud Caſtr. Ebor. in Com. prædict. die lunæ xii die *Aug.* anno Regis nunc *Caroli* Secundi Anglia, *&c.* xiiii *&c.* *A B* queritur, verſus *C D* de placito debiti: in cujus rei teſtimonium *R L*, *S R*, *T O*, et *S L* quatuor legales homines ex ill. qui record. ill. interfuer. in plena Cur. ſigill. ſua ſeparalit. appoſuer. die et anno ſupradict. *&c.*

The Plea by Writ. *A B* quæritur verſus *C D* de placito debiti, xx l.

Nota. That if a Plea be removed by *Pone* at the ſuit of the Defendant, or Plaintiff, and afterwards they proceed in this Court in the plea, and give judgment, and award execution, *&c.* then the Defendant, or he againſt whom the judgment was given, and execution awarded, ſhall have

an attachment againſt the Sheriff directed to the Coroner, to anſwer as well the King for the contempt, as the party his damages, *&c.*

Of the Writ of Prohibition.

THe Writ of Prohibition is of the ſame nature of a *Recordare*, and a *Pone*, but not in uſe.

Of the Conſultation, or Procedendo.

THeſe two Writs are both of one nature, though the Writ of *Conſultation* be *obſolete*, and the Writ of *Procedendo* ſtept up into its place; it lieth where a cauſe hath been formerly removed by *Pone* or *Recordare* from this Court into the *Kings Bench*, or *Common Pleas*, and for want of ſufficient cauſe of removal is ſent back again. *Fitz. old Natura brevium* 50.

The nature of a Writ of Falſe Judgment.

A Writ of *Falſe Judgment* lieth where an erronious Judgment is given in this Court, (being no Court of Record) then the party grieved by the Judgment may have this Writ, and remove all proceſs of the ſuit into the *Common-Bench*, and there it ſhall be examined: if it be found erronious, the Judgment ſhall be reverſed, and the ſuitors of the Court who gave the Judgment amerced.

Note, that a Writ of falſe Judgment lieth not, but in a Court where there are ſuitors; for if there be no ſuitors there, the Record cannot be certified by them. *F. N. B.* 43 *H.* *Nota.*

Virtute hujus brevis mihi direct. Recordari feci loquel. quæ eſt in Com. meo, una cum proceſſ. et judic. inter partes ſubſcript. et eiſdem partibus diem præfixi quod ſint coram Juſticiar. infraſcript. ad diem et locam infra content. prout hoc breve exigit et requirit quæ quidem loquel. cum proceſſ. et judic. ſuperinde patet in quadam Scedul. huic brevi annex. *The Return.*

Loquela

The Schedule. Loquela per breve in Com. meo tent. apud Caſtr. Ebor. in Com. præd. die lunæ xxiii die *Aug.* anno, &c. coram ſectat. ejuſdem Cur. tempore quo *I B* Ar. fuit Vic. Com. ſecund. conſuetud. & privileg. ejuſdem Cur. a tempore cujus contrar. memoria homin. non exiſtit uſitat. & approbat. in eadem.

Writ of Juſticies. Ad hanc Cur. venit *A B* in propria perſona ſua, & protulit hic in Cur. breve Dom. Regis nunc de Juſtic. quod quidem breve ſequitur in hæc verba: *Carolus* Secundus Dei gratia *Angliæ*, &c. Vic. Ebor. ſalutem: *A B* quæſtus eſt nobis quod *C D* ſuper ipſum eund. *A B* apud Caſtr. Ebor. inſult. fec. & ipſum verberavit, vulneravit & male tractavit, ita quod de vita ejus deſperabatur, & al. enormia ei intulit, ad grave damn. & nocument. dicti *A B* ideo tibi præcipimus quod loquelam prædict. audias, & poſtea eos juſte deduci fac. pro eadem, ne amplius inde clamorem audiamus pro defect. Juſtitiæ. Teſte meip. apud *Weſtm.* x die *Aug.* anno Regni noſtri xiiii. Et inde inven. pleg ad proſequend. loquel. prædict. ſcil. *I Doo*, & *R Roo*. Et ſuper hoc dictus *A B* in loco ſuo poſuit *S D* Attor. ſuum in loquel. præd. & per eund. Attor. ſuum petit proceſſ. ſuperinde ſibi fieri: Et præcipitur per dict. *I B* Ar. Vic. Com. præd. omnibus & ſingulis Ballivis ſuis conjunctim & diviſim, & eor. deputat. quod illi vel eor. aliquis juſtic. facerent eidem *C D* ita quod ſit & compareat ad prox. Com. tenend. apud Caſtrum Ebor. die lunæ xx die *Septembris* tunc prox. futur. in eodem anno, ad reſpondend. eidem *A B* in loquel. præd. Ad quem die ven. præd. *A B* per Attor. ſuum præd. & obtulit ſe verſus dictum *C D* in loquel. præd. Et adtunc & ibidem ven. *I P* unum Balliv. in Com. præd. *I B* Vic. dict. Com. & dict. præcept. retor. direct. ut prædicit. ſervit. & execut. ſuper eum: et idem *C D* eſſoniavit, quia venire non potuit uſq; ad prox. Com. tenend. apud Caſtr. præd. Ad quam quidem prox. Cur. videlicet die lunæ x die *Octobris* tunc prox. ſequend. annum ſupradict. ven. præd. *A B* per Attor. ſuum præd. & ſe obtulit verſus præfat. *C D* in loquel. præd. & præfat. *C D* adtunc & ibidem in propria perſona ſua ven. ad reſpondend. eidem *A B* in loquel. præd. & loco ſuo poſuit *I R* Attor. ſuum verſus eund. *A B* in loquel. præd. Ac per præd. Attor. ſuum de eadem Cur. pet. quod dictus *A B* narra-

Warrant upon the Writ.

Eſſoin. De male vener.

narraret verſus ipſum ſuper dictam loquel. ſuam: & inde dictus *A B* per Attor. ſuum præd. narravit verſus præfat. *C D*, ſuper loquel. præd. modo & forma ſequend.

A B virtute brevis Domini Regis de Juſtic. per *S D* Attor. ſuam quæritur verſus *C D* de placito tranſgr. & inſult. pro eo quod præd. *C D* x die *Octob.* anno, &c. apud Caſtr. &c. in & ſuper eundem *A B* inſult. & affrai. fec. & ipſum verberavit, vulneravit & male tractavit, ita quod de vita ejus deſperabatur, & al. enormia ei intulit, ad grave damnum ipſius *A B* unde idem *A B* dict. quod damnum habet ad valenc. xx l. & inde prædict. ſectam. Unde ad eandem Cur. ſuper requiſitionem defendentis, dies dat. iiſdem partibus in loquel. præd. uſq; ad prox. Comitat. tenend. coram ſectator. præd. die lune xv die *Novemb.* tunc prox. ſequend. ſalvo defendent. &c. ad quem diem ad Cur. præd. coram ſectator. prædict. tent. apud Caſtr. Ebor. præd. ven. tam prædict. *A B* per Attor. ſuum prædictum, quam præfat. *C D* per Attor. ſuum prædict. & adtunc & ibidem præfat. *I B* Ar. ab offic. Vic. Com. præd. amot. fuit, & *R L* Ar. debit. elect. & intravit in offic. Vic. Com. Ebor. prædict. unde ad eandem Cur. ſuper requiſitionum partium, ulterior dies dat. eiſdem partibus in loquela præd. uſq; ad prox. Comitat. die lune xiii die *Decemb.* tunc prox. ſequend. anno prædicto tenend. coram ſectatoribus præd. ſalv. partibus, &c. ad quem diem ad eandem Cur. coram ſectator. præd. tent. apud Caſtr. Ebor. præd. ven. tam præd. A B per dictum Attorn. ſuum, quam prædictus C D per Attorn. ſuum præd. & præfat. C D per Attorn. ſuum præd. ven. & defend vim & injur. quando, &c. & idem Attor. dixit quod ipſe non eſt informat. per magr. ſuum de aliquo reſponſ. pro eodem C D eidem *A* B in loquel. præd. dand. per quod præfat. *A* B verſus prædict. C D remand. inde indefenſ. ob quod præfat. *A* B recuperare debet verſus prædict. C D damna ſua occaſione tranſgr. & inſult. & vulnerat. præd. ſed quia Cur. prædict. incognito exiſtit quæ damna præfat. *A* B ſuſtinuit ratione præmiſſor. Ideo ad prox. Comitat. tent. apud Caſtr. Ebor. præd. in Com. præd. coram ſectatoribus prædict. die lune x die *Januarii* tunc prox. ſequend. anno præd. requiſit. fuit per Sacram. I W R S S G M L T P, &c. duodecim probor. & legalium hominum Com. præd. exiſtend.

Ebor. ſſ. Narratio.

Empayelance.

Non ſum informatus.

Jury to enquire damages.

iſtend. in Cur. & in plen. Comitat. jurat. ad inquirendum quæ damna præſat. *A* B ſuſtinuit occaſione tranſgr. & injuria ſuſt. & vulnerat. prædict dicunt ſuper ſacram. ſua quod præfat. *A* B damna ſuſtinuit occaſione prædict. tranſgr. & injuriæ inſult. & vulnerat. ad decem libr. & pro miſ. & cuſtag. per ipſum in ea parte expend ad duos denar. Ideo conſide eſt per eandem Cur. quod præfat. *A* B recuperet verſus præd. eundem C D damna & cuſtag. præd. per Juratores prædict. in forma prædicta aſſeſſat. ac etiam quadragint. ſolid. per Cur. præd. eidem *A* B ex aſſenſu ſuo, pro incremento cuſtag ſibi adjudicat quæ dict. damna & cuſtag. attingunt ad xii l. xi d. Et præd. C D in miſ. &c. In cujus rei teſtimonium, &c.

The nature of an Accedas ad curiam.

THis Writ iſſues out of the Chancery, directed to the Sheriff, commanding him to go to ſuch Court of ſome Lord or Franchiſe, as Court Baron, or the like (being no Court of Record) where a Plaint is ſued, or a falſe judgment is ſuppoſed to be given in ſome ſuit which hath been in the Court, and by this the Sheriff is there to make Record of the ſame ſuit, in the preſence of the ſuitors of the ſame Court and four lawful men of the County, and of this he is to make a Certificate into the Court above under his ſeal, and the ſeals of four of the ſuitors of the ſame Court, at the day appointed by the Writ. *F. N. B.* 71. *Plowden* 74. *Finch* 444.

This Writ cannot be had without ſhewing ſome ſpecial cauſe for the removing of it: as, that a *Freehold* is in queſtion there, or ſome forreign plea is pleaded not tryable in that Court, or ſuch like. *F. N. B* 70. 119.

The County-clerk is to make a precept upon the Writ in this manner.

Ebor. ſſ. Precept upon an *Accedas ad curiam.*

I B *Ar.* Vic. com. Ebor. Seneſchallo & Ballivo cur. Honor. de P ſalutem: Virtute brevis mihi direct. vobis mando quod aſſumptis vobiſcum quatuor diſcretis & legalibus liberis tenentibus de comitat. præd. accedatis ad cur. præd. & in plen. cur. ibidem recordari fac. loquelam quæ eſt in eadem cur. ſine brevi, inter I S & G M de quadam tranſgr. ſuper

ſuper caſum product. per dictum I S verſus eundem G M, præfertur : & quod Recordum illud mihi certificetis, quod idem habeam coram Juſtic. de Banco apud *Weſtm.* a die Sancte Trinitat. in quindec. dies, ſub ſigillis meis, & ſigillis quatuor legalium hominum ejuſdem cur. illis qui Recordo illo interfuerunt : & quod eundem partibus præfigitis, quod tunc ſint ibi parat. in loquela præfat. prout juſtum fuerit proceſſur. Et habeas ibi nomina quatuor hominum præd. & hoc præcept. Dat. ſub ſigillo officii mei ſecundo die *Junii* anno Regni Domini noſtri *Caroli* Secundi Dei gratia *Angliæ*, *Scotiæ*, *Franciæ*, & *Hiberniæ* Regis, Fidei Defenſoris, *&c.* xiiii.

Per Vic.

Cur. Baron G S I K &c. tent. apud P pro honore de P xii die *Junii* anno Regni Domini noſtri *Caroli* Secundi Dei gratia *Angliæ*, *Scotiæ*, *Franciæ*, & *Hiberniæ* Regis, Fidei defenſor. &c. xiiii. *The Return. Honor. de P.*

R S queritur verſus I N de placito tranſgr. ſuper caſum ad damnum xxx s. *The Plaint*

Virtute hujus brevis mihi direct. ad cur. præd. tent. die & annum prædictis, in plen. cur. ibidem Recordari feci loquelam unde interius fit mentio ; quæ loquel. patet ſuprascript. & illud Record. retornavi ſigillat. ſigillo meo & ſigillis prædictor. quatuor legalium hominum, qui eadem cur. recordo illo interfuer. Et partibus infra ſcript. die præfixi in brevis ſpecificat. quod tunc ſint parat. prout juſtum fuerit proceſſur. in loquel. prædict. ſicut interius mihi præcipitur.

W O Seneſchal.
I H T H } Suitors.
I G R H }

Virtute hujus brevis mihi direct. in forma infra ſcript. acceſſi ad cur. infra ſcript. & in plena cur. ill. recordari feci loquel. infra ſcript. & Record. illud (prout patet in Scedul. huic brevi annex.) coram Juſtic. Dom. Regis habeo ad die et locum infra content. ſub ſigillo meo et ſigillis T R *A B C D* et E P, quatuor legalium hominum com. mei, ex illis qui Record. interfuerunt, et partibus, *&c.* *Record to be deliver-ed in Court.*

Or

Or thus, if the Record be not returned.

Virtute hujus brevis mihi direct. & in proprium perſ
mea aſſumptis mecum R S, &c. quatuor probis & legi
Milit. com. mei, acceſſi ad cur. Baron. G S I K, &c. te
apud P. pro Honore de P. loquelam infraſcript. Record
ad diem & locum infra content. prout interius mihi præ
pitur, unde ſectator. ejuſdem cur. apud P præd. in ple
cur. me infraſcript. Vic. idem breve ibidem exequi
quoad loquel. præd. aliquo modo intermittere omnino
negaver. pro quod executor. iſtius brevis facere non p
ſum, &c.

It is a good return for the Sheriff to ſay, that *after t receipt of the Writ, and before the return thereof, that Court was holden; and that alſo he required the Lord hold his Court, and he would not, ſo as he could not execu the ſame.*

The Return of a Writ for the Election of a C roner, after the death of another.

AD com. meum tent. (tali die & anno) in pleno com. præ virtute iſtius brevis de aſſenſu ejuſd. com. loco P H inſ nominat. (qui diem clauſit extremum) Elegi Coronat. I M qui (prout moris eſt) Sacrament. præſtitit corpor quod ipſe ea faciet & conſervaverit quæ ad offic. Coron in com. præd. ſpectant faciend. prout interius, &c.

The Return of the Writ of Exigent.

VIrtute iſtius brevis mihi direct. ad com. meum Ebor tent. apud Caſtr. Ebor. in com. Ebor. infraſcript. lune, &c. anno, &c. infraſcript. I C & cæteri defend. in nominat. (*if there be above two in the Writ*) primo exact. fuer. & non comparuer. ad com. meum Ebor. ibide tent. die lune, &c. anno prædicto, prædictis I C & cete defend. infra nominat. ſecundo exact. fuer. & non comp ruer. ad com. meum Ebor. ibidem tent. die lune, &c. an prædicto, præfat. I C & cetер. defend. infra nominat. ter

exa

exact. fuer. et non comparuer. ad Com. meum Ebor. ibidem tent. die lune, &c. anno prædicto; præfat. I C et cæter. defendent. infra nominat. quarto exact. fuer. et non comparuer. Ad Com. meum Ebor. ibidem tent die lune, &c. anno prædicto, prædictus I C et cæter. defend. infra nominat. quinto exact. fuer. et non comparuer. Ideo prædict. I C et cæter. defend. infra nominat. per judicium I W et W R Gen. Coronar. dict. Dom. Regis Com. præd. secundum legem et consuetud. Regni Domini nostri Regis *Angliæ*, utlagat. sunt, et quilibet eor. utlagat. est.

I B Ar. Vic.

Virtute istius brevis mihi direct. ad com. meum tent. apud Ebor. in com. Ebor. infrascript. die lune, &c. anno infrascript. predictus I R infra nominat. primo exact. fuit et non comparuit, istud breve prout superius indorsatur mihi deliberat. fuit per I B Ar. nuper Vic. com. infrascript. prox. predecessor. meum in ejus exitu ab officio suo: et ad com. meum (*as before.*) *Betwixt two Sheriffs.*

Or thus.

Istud breve sic superius indorsat. una cum brevi dict. Dom. Regis de supersed. eidem annex. mihi liberat. fuit per I B Ar. nuper Vic. com. præd. prox. prædecessor. meum, &c.

Utlary returned against a woman.

Ideo secundum legem et consuetud. *Angliæ*, E D waviatur.

Virtute, &c. ad com. meum tent. die lune, &c. eodem anno, &c. infrascript. pred. I C quinto exact. fuit, et non comparuit, et pro defectu M B et R C, Coronat. com. pred. ulterius inde prosequi non potui. *Defect of the Coroner.*

Virtute, &c. et ad com. meum, &c. et quod non fuer. plures comitat. in com. pred. tent. a die receptionis hujus brevis pred. usq; ad diem retorn. ejusdem, per quod nihil actum est ad præsens. *Defect of the County.*

Or thus.

Et ideo in executione hujus brevis ulterius faciend. n
hil act. eſt.

Superſed. Virtute, *&c.* ad com. meum predictum tent. die lu
&c. anno, *&c.* infraſcript. predictis C D quarto exa
fuit et comparuit, et protulit mihi breve Dom. Regis
ſuperſed. quod huic brevi annex. ideo execut. hujus b
vis ulterius facere ſuperſedi omnino.

Or thus.

Prout in predicto brevi Domini Regis, *&c.* de ſup
ſed. mihi precipitur.

Or thus.

Quoad exigend. utlagar. capiend. ſeu aliqualiter mo
ſtand. infra nominat. I R virtute hujus brevis Juſtic. &
infraſcript. ad diem et locum interius conten. certifico q
virtute cujuſdam alterius brevis Dom. Regis mihi dir
huic annexat, omnino ſuperſedi, prout per breve illud m
precipitur.

Where one renders himſelf, and the reſt appear not. Virtute, *&c.* ad com. meum Ebor. ibidem tent. &
predictus I H et ceter. defend. infra nominat. quinto
act. fuer. ad quem diem pred. I H comparuit et ſe re
dit priſone Dom. Regis, *&c.* de Caſtr. Ebor. cujus
pus coram Juſtic. infraſcript. ad diem et locum infra
tent. parat. habeo, prout interius mihi precipitur: ſed
ter. defend. infra nominat. non comparuer. ideo, *&c.*
before.

Rendred himſelf Et preter I S qui ſe reddidit priſone, *&c.* Caſtri
rum cujus quidem corpus coram Juſtic. infraſcript. ad
et locum infra content. parat. habeo, prout hoc breve
git et requirit: Et preter I C qui mortuus eſt et non
paruit, ideo prejudic. *&c.* et pred. T C waviat. eſt in
ſent. T B et F W Coronat. *&c.* com. pred.

Ad com. *&c.* 1, 2, 3, 4, exact. fuit et comparuit et red- *Languid.*
didit ſe priſone, *&c.* Caſtr. Ebor. ubi tam languidus eſt, quod propter timor. mortis ejus apud coram Juſtic. infraſcript. ad diem et locum infra content. habere non poſſum.

The Return of the Writ of Proclamation.

Virtute hujus brevis mihi direct. ad com. meum Ebor. tent. apud Caſtrum Eborum infraſcript. die lune, *&c.* anno, *&c.* infraſcript. primo Proclamari feci; et ad com. meum Ebor. tent. apud Caſtr. Ebor. pred. in dicto com. Ebor. die lune, *&c.* anno, *&c.* infraſcript. ſecundo Proclamari feci; et ad General. Seſſion. pacis tent. apud *Skipton* pro le *Weſt-riding* ejuſdem com. infraſcript. die Martis, *viz.* x die *Septemb.* pred. anno, *&c.* infraſcript. publice Proclamari feci quod I C et omnes al. defend. infra nominat. ſeipſos reddunt infra nominat. Vic. *London*, ita quod iidem Vic. corpora cor. habeant coram Juſtic. infraſcript. ad diem et locum infra content. prout hoc breve exigit et requirit.

The manner of proceeding upon the Writs of Recordare, Pone, Writ of Falſe Judgment, &c. *in the* Common-Pleas, *after removal out of the County-Court.*

YOu muſt repair to the County-clerk, or his Deputy, and demand a return of the Writ of *Recordare*, or *Pone.*

If upon the return the Defendant appear, then muſt you declare; and when your Declaration is drawn, enter it upon a *Roll* in one of the *Prothonotaries* Offices, and ſee that it be *docqueted* together with the number of the *Roll.*

If the Writ be returnable in the beginning of a *Term*, (eſpecially in iſſuable Terms) the Defendant is to anſwer the ſame Term, unleſs the Defendant hath *Emparlance* to plead until the following Term.

Rules to anſwer muſt be entred in the Remembrance in the Prothonotaries Office, entring in the Margent, or over

the head of the Rule, that *if the Defendant do not plead* (within some few daies) *let Judgment be entred.* And if no Plea be brought in within the time, then may you sign Judgment with the *Prothonotary* in default of answer.

Nota. If the Defendant appear not upon the return of the Writ, then may the Plaintiff have a *Procedendo* to carry the cause back again into the County-court.

If the Plaintiffs Attorney declare not against the Defendant, upon his appearance, within a reasonable time of the *Term*; then may the Defendants Attorney enter a *Rule* in the *Bill of Pleas* against the Plaintiff to declare; and if he declare not, then may he enter a *Non prosec.* and sign it with the *Prothonotary*, and costs given for the use, just vexation.

If the Defendant plead *General Issue*, then must the Attorney for the Defendant set his hand to the *Doquet-book* of the Plaintiffs Attorney, who draws up the Plea, and makes a Copy of the Issue, and delivers it to the Defendants Attorney; and then they usually give notice of Tryal.

If the Defendant plead specially, he is to bring it to the Plaintiffs Attorney under a *Serjeants* hand; and if the Plaintiff reply specially, it must likewise be under the *Serjeants* hand: the like upon a *Demurrer* to a Declaration, and *Rejoynder* in Demurrer.

Nisi prius. If your tryal be by *Nisi prius*, at the *Assizes* in the County, and the Jury appear not full upon the *Pannel*, then may you require a *Decem tales de circumstantibus*, viz. ten of the standers by to fill up the jury, or more, or less as is requisite; which *Tales* must be mentioned upon the return of the *Postea*, and the Judgment upon it in the Issue Roll.

Having entred your Declaration, with the *Issue* joyned in the *Prothonotaries* Office, then make out a *Venire facias* upon your Issue, and get it signed with the *Prothonotary* and seal it; then get it returned by the Sheriff of the County where the action is laid, and upon the return of it, sue forth an *Habeas corpora*, and deliver the same to the Sheriff to summon the Jury, and get it returned before the *Assizes*.

In suing forth your *Nisi prius*, ingross your Record, according to the copy of the Issue made up, and the entry of it upon the *Roll* in the *Prothonotaries* Office, and ex-

mi

mine it; if it be upon an Iſſue joyned the ſame Term, whoſe hand muſt be to it, then carry the ſame to the *Clerk* of the *Treaſury* to ſign and make up the *Record*.

If the Iſſue was entred of a Term paſt, then muſt you deliver the Paper-Book of the Iſſue to the *Clerk* of the *Treaſury*, to examine the ſame by the *Roll*, and to make up the Record, which muſt be ſigned by him; then muſt it be ſealed with the *Lord Chief Juſtice* of the Court, and then deliver it together with the *Hab. Corp. Jur.* returned by the Sheriff to the Clerk of the *Aſſ.* for that County where it is to be tryed, paying the Judges.

Then retain Councel, and have your Witneſſes ready for the tryal.

The tryal being had, and Verdict paſſing for your Client, the next Term you are to call of the Clerk of the *Aſſizes* for a return of the *Poſtea*, and thereupon the *Prothonotor* will aſſeſs coſts, and cauſe Judgment to be entred, upon which you may have Execution by *Capias ad ſatisfaciendum*, *Fieri facias*, or *Elegit*, *&c.* according as you deſire, and as the nature of the action brought doth allow or require.

Note, that a *Capias ad ſatisfac.* is only againſt the body, who muſt be impriſoned until ſatisfaction be made; and if the Defendant cannot be found, the Plaintiff cannot have another Execution, 20 *E.* 2. for he may chuſe at the firſt, whether he will have a *Capias*, or an *Elegit*; but if he take the *Capias*, he ſhall not have the *Elegit* afterwards, *nec è converſo.* 15 *H.* 7. 15. *Nota.* *Cap. ad ſatisf.*

The Writ of *Fieri facias* is only againſt the goods; as, Leaſes for years, or moveable goods; as Corn, Houſhold-ſtuff, Cattel, Apparrel, Money, Plate, *&c.* and it ought to be ſued out within the year after the Judgment. *Co.* 3. 13. After a *Fi. fa.* a man may have an *Elegit*; but on the contrary, after the *Elegit* he cannot have a *Fi. fa.* becauſe the *Elegit* is of a higher nature then the *Fieri facias*. *Fi. fa.*

An *Elegit* is a Writ whereby the Plaintiff is to have Execution of the half of all the Defendants Lands and Chattels, (except Oxen and Beaſts of the Plough) till the debt and damages be wholly levied, and paid to him; and during the Term he is tenant by *Elegit*. *Terms of the Law.* *Elegit.*

The Proceedings upon the Writ of False Judgment.

YOu muſt call of the County-clerk for a return of the Writ, together with the whole *Record* of all the proceedings from the original and beginning of the cauſe in the County-court.

The Writ being returned, you muſt aſſign *Errors*, and take Copies thereof, and thereupon ſue forth a *Scire facias* to the Plaintiff in the action to hear *Errors*; to which the Plaintiff may appear, and plead the common plea which is, that *the action nor proceedings in the County-court are in nothing erronious*. Then muſt the Defendant endeavour to get a *Rule*, or day given for the arguing of the ſame Errors.

But if the Defendant doth delay, and doth not call for a return of the Writ, nor proceed, then the Plaintiff may ſue forth another *Scire facias* againſt the Defendant, to ſhew cauſe why he ſhould not have execution upon the judgment had in the County court: and if at the return of the ſecond *Scire facias*, Errors be not aſſigned, then judgment is confirmed in that Court into which the Writ is returnable.

If Errors be found and allowed to be ſufficient and good, then is the ſaid judgment to be reverſed and made void: But if Errors be not found good, then is the judgment in the County court affirmed, and further coſts for delay of execution allowed to the Plaintiff, who may preſently ſue forth execution out of that Court into which the Writ was returned againſt the Defendant.

Nota. Note, that if the judgment be reverſed and made void, yet notwithſtanding it takes not away the Plaintiffs cauſe of action, for he may commence a new action againſt the Defendant for the ſame cauſe.

The ſame proceedings are upon an *Accedas ad Curiam*. See the Record upon it.

The

The manner and form of drawing up Records upon a Writ of False Judgment, *and* Accedas ad Curiam.

PRecept. est Vic. quod si *A* B eundem Vic. fecerit secu- *Record*
rum de clamore suo prosequendo tunc in plen. Comitat. *upon a*
suo recordari fac. loquel. quæ fuit in dicto com. per breve *Writ of*
Dom. Regis nunc inter W B & eundem A B de quodam *False*
transgr. super casum eidem A B per eundem W B com- *Judgment.*
miss. &c. Et unde idem A B quæstus est quod judic. fal-
sum sibi fact. fuisset in eadem comitat. & quod habeat hic
ad hunc diem, scilicet, *Octab. Pur.* sub sigillo suo & per qua-
tuor legales Milit. ejusdem com. qui recordo illo inter-
essent, & quod habeat hic Summonitor. nomina quatuor
Militum hoc breve, & al. breve.

Et nunc hic ad hunc diem ven. tam prædict. A B per *Simon Dunn* Attorn. suum quam dictus W B summonit. &c. per *Philippum Prince* Attorn. suum; & Vic. scilicet, *Geo. Mar.* Ar. modo retornavit quod prædict. A B invenisset eodem Vic. pleg. de dicto brevi suo prosequend. scilicet, *Jo. Doo*, & *Ric. Roe*, & quod ipse virtute brevis illius sibi direct. ad com. suum tenr. apud Castrum Eborum in com. præd. x die *Maii* anno Regni Domini nostri *Caroli* Secundi nunc Regis *Angliæ*, &c. xiii eundem loquel. recordari fecit, quæ fuit in dicto com. inter eadem A B & W B & Record. ejusdem loquel. coram Justic. hic ad hunc diem paratum habet sub sigillo suo, & sigillis *H M*, & quatuor legalium Militum dict. com. ex illis qui Recordo interfuerunt: & quod summonivit eundem W B quod sit hic ad hunc diem, auditur. Record. illud per R S & F L, prout per dictum breve sibi præceptum fuit, &c. quod quidem Record. sequitur in hæc verba.

Carolus Secundus Dei, &c. Vic. Eborum salutem: quæstus est nob. W B quod A B de C in com. suo *Husbandman*, quamvis prædictus W B verus & fidel. subditus noster, & tanquam verus & fidel. subdit. nostra tempore Nativitat. suo hac usque vixerit & se gesserit, & bonorum nostris & fame apud quamplurim. subdit. nostrorum not.

fuit habit. & reputat. prædictus tamen *A B* præmiſſorum non ignarus, ſed machinans & malitioſe intendens, ipſum *W B* non ſolum de bonis, nomine, fama, & eſtimatione ſua is totaliter diſtruere, verum etiam eundem *W B* in perturbationem, vexationem, & infamiam apud vicinis ſuis quamplurimum al. fidel. ſubdit. hujus Regni noſtri, indecere hec falſa, ficta & ſcandaloſa verba de eodem *W B* apud *C* in preſen. & audit. diverſorum fidel. ſubdit. hujus Regni noſtri, dixit, retulit et alta voce propalavit in hec anglicana verba ſequend. viz. *W B* (eundem *W B* innuend.) *hath ſtolen my horſe*: quorum quidem falſor. & ſcandaloſorum verborum dictiones publicationem & propalationem, prefat. *B* non ſolum in bonis nomine & fama ſuis leſus, verum etiam in accionib. & negotiis cum honeſt. perſon. quibus idem *W B* emendo, vendendo, & licite barganizando antea uſitat. leſus, & detercorat. exiſtit, ad grave damn. ipſius *W B*, *&c.*

Ideo precipimus tibi quod loquel. illam audias, et poſte eandem deduci facias, ne amplius inde clamorem audiamus pro defectu Juſticies. Teſte meipſo, *&c.*

Placita tent. apud Caſtr. Ebor. in Com. Ebor. die lune 2 die Junii, *anno Regis* Car. *Secundi, xiii.*

AD hanc Cur. W B quæritur verſus A B de placito tranſgr. ſuper caſum W B per P P Attorn. ſuum queritur verſus A B de placito tranſgr. ſuper caſum pro eo, videlicet, quod cum idem W B bonus, verus & fidelis ſubdit. Dom. Regis nunc & al. Regn. *Angl.* a tempore Nativitatis hucuſq; gubernavit & ſe geſſerit, & bonorum nominis, fame, credent. & reputationis honeſte cum bonis & grandevis hominib. s, tum vicin. ſuis, quam al. fidel. ſubdit. Dom. Regis nunc habit. not. exiſtimat. & reputat. abſque aliquam falſitate, furto, perjur. felon. fraude five macula cujuſcunque culpe, ſive criminis nocivi immaculat. & intact. per totum tempus prædictum geſſerit & ſe gubernavit; prædictus tamen A B præmiſſorum non ignarus, ex mera & nequiſſima malitia precogitata intendens nomen & famam ejuſdem W B ledere, detrahere, pejo-

rare,

rare, obtenebrare & totaliter destruere, ac etiam in perturbation. vexation. & infamiam traducere & inducere quædam falsa & scandalosa verba & mendacia de eadem W B octavo die *Aprilis*, anno Regni *Caroli* Secundi nunc Regis *Angl.* xiii apud, &c. & infra libertat. & Jurisdiction. hujus Cur. in present. & audit. quamplurimum fidel. subdit. dict. Dom. Regis, dixit, protulit & propalavit, videlicet, W B eundem W B innuend. *hath stoln my horse out of my Close, which I will prove:* quorum quidem falsor. & scandalosorum verborum dictionis & propalationis prætextu idem W B non solum in bonis, nomine & fama lesus est, verum etiam in negotiis suis proficiend. cum honestis person. omnibus dict. W B in emend. vendend. & licite barganizand. multam impedit. ac etiam quodam al. person. & subdit. dict. Dom. Regis nunc ea occasione seipsos a consortio ejusdem W B subtraxerunt, & consortium cum eo habere penitus recusaverunt & adhuc recusant; unde, &c. ad damnum 39 l. & inde prædict. sectam, &c. Et præd. A B per S D Attorn. suum ven. &c. Et dic. quod prædictus W B actionem suam prædictam versus eum habere non debet; quia dic. quod ipse non est culpabilis de diction. & propalation. verborum in narration. prædict. superius specificat. nec de aliqua parte eorum, modo & forma prout prædictus W B superius versus eum quærimur. Et hoc &c. Ideo secundum consuetud. præcept. est Balliv. Wapentag. de *Ouze* & *Dar*, quod ven. fac. coram Seneschall. ejusdem Cur. ad proxim. Cur. Com. mei præd. (tali die) xii, &c. Et quod nunc habeat ibi idem præcept. una cum panell. de nominibus Jurat. præd. eodem die: Ad quem Cur. Com. tent. apud Castr. Eborum præd. secundum consuetud. coram Seneschall. ibidem die lunæ secundo die *Apr.* ven. tam prædict. W B per *Attorn.* suum præd. quam idem A B per Attorn. suum, &c. ac idem Balliv. Wapentag. prædict. præcept. sibi direct. retornavit in omnibus execut. una cum panella de nominibus Jurator. præcept. annex. scilicet, in eodem panella nominantur L M N R, &c. ad faciend. Jur. inter partes præd. in loquela prædict. qui ad dicend. veritat. præmissor. electi. triat. et Jurat. dicunt super sacrament. suum, quod præd. A B est culpabilis de dictiones & propalation. dictor. verborum in narrationem prædicta specificat. & allident damna dict. W B occasion. dictionis eor. idem verbor. ultra mis. et custag per ipsum

ipſum circa ſectam ſuam in hac parte expenſ. ad 4 l. & pro iiſdem miſis & cuſtag. ad octo denar. Ideo con. per eundem cur. quod dictus W B recuperet verſus dem A B damna ſua prædicta per Jur. prædict. in ſo prædicta aſſeſſa, & etiam tres ſolid & octo denar. pro & cuſtag. ſuis, quæ quidem damna in toto attingunt 5 l. 17 s. 4 d.

In cujus rei teſtimonium ſigill. Seneſchall. Cur. pr eſt appoſit. Dat. apud Caſtr. Ebor. xii die Ma anno Regis Caroli *Secundi* Angliæ, *&c. xiiii.*

Errors aſſigned. Et unde idem W B pet. quod dictus *A* B oſtendat c hic & aſſignet defectus ubi falſum judicium fact. eſt in cta loquela ſi quodvis ſibi fact. fuerit: Unde præfat. *A* dic. quod idem record. vitioſum & valde defectivum e iſtit, ſcilicet, in eo quia non liquet per Record. ante q cur. prima fuit tent. ac in hoc, quod præd. W B in Nar tione ſua quæſtus eſt ſe damn. habere deterior. fuiſſe lenc. xl l. cum per Leges hujus Regni eadem cur. plac non poteſt tenere de xl s.

In hoc etiam, quod eadem cur. tent. xii *Marcii*, cor Seneſchall. tent. fuit; cum tenuiſſe debuit coram ſecta rib. ejuſdem cur. & Vic. Com. pro tempore exiſten. quod dictum judicium coram non judice reddit. fuit. E am in hoc, quod per idem Record. patet quod prædict W B comparuit per P P *Attorn.* ſuum, & idem *A* B co parnit per S D *Attorn.* ſuum, ſed in Recordo nulla men fit ullius Warran. Attorn. pro eod. W B aut pro eod *A* B in loquela prædicta. Et idem *A* B dic. quod p multos varios modos in cur. com. præd. falſ. judic. in quel. præd. ſibi fact. & unde per. quod dictum judicium p dictis defectibus & al. in eod. record. exiſtend. tanqua falſ. & erron. adnihiletur, & omnino pro nihilo habeatur Et quod idem *A* B ad præd. 5 l. 17 s. 4 d. quæ dictus W virtute judicii prædicti pro damnis ſuis occaſione prem ſorum verſus eum recuperavit, & ad omnia quæ ipſe occ ſione ejuſdem judicii amiſit, reſtituatur, *&c.*

Et idem W B dic. quod in recordo prædicto nullus

error, nec eidem *A B* in eadem cur. com. falsum factum est judicium in loquela prædict. et pet. quod Justic. hic procedeant ad examinand. idem Record. et ad reformand. et corrigend. falsum judicium, si quodvis falsi in eo inveniatur, probatur, vel manifestetur. Et quia Justic. hic seipsos advisare volunt de et super premiss. antequam ulterius procedant, dies dat est, *&c.* in *Oct. Pur.* ad audiend. inde quid cur. de hoc et super premissis considerabit, quia Justic. adhuc inde nondum, *&c.* Ad quem diem ven. hic tam præfat. *A B* quam præd. *W B* per *Attorn.* suos prædict. Et quia Justic. hic ulterius seipsos advisare volunt de et super premiss. præd. priusquam judicium inde reddant, dies ulterius dat. est, *&c.* *Mense Paschæ*, ad audiend. inde quid cur. inde de et super premiss. præd. considerabit, quia Justic. hic inde nondum, *&c.*

If any errors and defects be found in the proceedings, then will the Judgment be reversed, and a Writ of Restitution awarded.

Precept. est Vic. si *A B* et *C D* inveniant securitat. Vic. de clamore suo prosequend. tunc in plen. com. suo recordari faciat loquelam quæ fuit in eadem cur. sine brevi Domini Regis inter *E F* et eundem *A B*, et *C D* de averiis ejusdem *E F* capt. et injuste detent. *&c.* Et unde iidem *A B* et *C D* questi sunt falsum sibi factum fuisse judicium in eadem cur. Et quod habeat hic ad hunc diem, scilicet in *Octab.* Hill. record. illud sub sigillo suo et sigill. quatuor legalium Militum qui Recordo illo interfuerunt; quod summoneat per bonos summonatores prefat. *E F* quod sit hic ad hunc diem, ad audiend. Record. *&c.* *Upon a Replevin.*

Et modo hic ad hunc diem ven. tam predict. *A B* et *C D* per *S D Attorn.* suum, quam prædict. *E F* per *P Attorn.* suum; et Vic. scilicet *G M Armig.* nunc retornavit, quod iidem *A B* et *C D* eidem Vic. invenit. pleg. de prosequend. dictum breve, scilicet *Jo. Doo*, et *Ric. Roo*, et quod summonivit eundem *E F* sit hic ad hunc diem per *I R* et *I S* probos, *&c.*

Vic. etiam retornavit quod ipse virtute ejusdem brevis sibi

sibi direct. in pleno com. tent. apud Castr. Ebor. in
præd. xii die *Apr.* ult. præterit. loquelam prædictam
cordari fecit & habet Record. hic ad hunc diem sub sig
suo & sigillis L M, M R, proborum & legalium Milit
jusdem com. ex illis qui Recordo illo interfuerunt, p
per breve illud ei præcept. fuit; tenor. cujus Record
quitur in hæc verba.

Ebor. ss. Memorand. quod xii die *Aprilis*, anno Regni Regis
Caroli Secundi xiiii, &c. coram G M Ar. Vic. com
apud Castr. Ebor. in Com. Ebor. ven E F per P
torn. suum, & quæritur versus A B & C D de pl
quare averia ejusdem E F ceperunt & ea injuste detin
contra vad. & pleg. quousq; &c. Et invenit pleg. e
E F de clamore suo prosequend. ac etiam de averiis re
nand. si retorn. inde per legem adjudicetur, scilicet, *la*
& *Ric. Roo*, & ad tunc & ibidem pet. debit. legis pro
inde faciend. versus A B & C D, &c. Ideo secundum
suetud. in com. prædicto a tempore cujus contrar. me
ria hominum non existit, usitat. & approbat. ex p
Dom. Regis nunc præcept. est I S Balliv. Wapentag.
W, & un. Minister. ejusdem Vic. com. prædict. quod
secundum istam consuetud. ponat. per vad. & salvos p
eosdem A B & C D quod sint coram me dicto Vic.
proxim. com. præd. videlicet, apud Castrum Eborum
die *Apr.* anno, *&c.* supradicto tunc proxim. sequend.
mend. ad respondend. eidem E F in placito prædict
dem dies dat. eidem E F tunc versus eosdem A B &
ad prosequend. eundem placitum. Ad quem diem
viz. at prox. cur. com. meam tunc tent. apud præ
Castr. Ebor. ven. præd. E F per Attorn. suum præ
eodem xii die *Apr.* et idem I S Ball. Wapentag. præd.
tornavit præceptum prædictum sibi in forma prædict.
rect. in omnibus servit. & execut. scilicet, quod ipse
tute ejusdem præcept attachiavit eosdem A B & C
per pleg. viz. *Jo. Den* & *Ric. Fen*, quod hic sint ad h
diem, scilicet eodem xii die *April.* in forma prædicta, p
per idem præcept. ei præcept. fuit.

Et idem A B & C D in plen. cur. ibidem exact.
ven. sed defalt. facer. Unde idem E F per Attorn. s

præd. pet. ulter. proceſſ. faciend. ſuper dictam loquelam verſus eoſdem A B & C D & habet, &c.

Ideo ſecundum conſuetud. cur. com. præd. præcept. eſt eidem *I S* Balliv. Wapentag. de *W* & un. Miniſtr. com. præd. quod ſecundum conſuetud. cur. illius, diſtringat. eoſdem *A B* & *C D* per omnia bona & catalla ſua in Balliva ſua, ita quod neq; &c. quouſq; &c. ita quod ſint coram me eodem Vic. ad prox. com. meum tenend. apud dict. Caſtr. Ebor. ſcilicet. x die *Maii*, anno prædicto tunc prox. ſequend. ad reſpondend. eidem *E F* in eadem loquel. idem dies dat. eidem *E F* hic, &c. Ad quem quidem prox. com. præd. hic, ſcilicet, apud dictum Caſtr. Ebor. eodem x die *Maii*, anno ſupradicto tunc tent. ven. tam *E F* per *P P* Attorn. ſuum præd. quam dict. *A B* & *C D* per *I S* Attorn. ſuum; & præd. *A B* & *C D* obtulerunt ſeipſos verſus dict. *E F* eſt in eadem loquela: & idem *E F* inde quæſtus eſt, & Narravit verſus prædict. *A B* & *C D* de placito quare idem *A B* & *C D* 4 die *Marcii*, anno, &c. apud *Y* infra juriſdictionem hujus cur. in quodam loco vocat le *Hayes*, averia, viz. ſex Vitulis, *Anglice Calves* ipſius *E F* ceperant & eos injuſte detinuer. contra vad. & pleg. quouſq; &c. *Diſtreſs awarded.*

Unde ipſe tunc dixit quod deteriorat. extitit & damn. habuit ad valenc. 39 s. 11 d. & inde produc. ſectam, &c.

Et unde idem *E F* tunc & ibidem in loco ſuo poſuit eundem *P P* Attorn. ſuum verſus eoſdem *E B* & *C D* ad lucrand. vel perdend. in eadem loquel. (*Here muſt likewiſe be a Warrant of Attorney for the Defendant.*) Et inde idem *A B* et *C D* per *S D* Attorn. ſuum prædict. tunc in eadem cur. pet. licentiam inter loquendi hic, uſq; prox. cur. com. coram dicto Vic. viz. xv die *Maii*, anno ſupradicto tunc prox. ſequend. tenend. apud Caſtrum Eborum, & tunc ad reſpondend. &c. Et eis conceditur, &c. idem dies dat. eidem *E F* hic, &c. Ad quam quidem prox. com. coram dicto Vic. com. præd. hic, ſcilicet, apud Caſtr. Ebor. præd. xv die *Maii*, anno ſupradicto ven. tam dictus *E F* quam *A B* & *C D* prædict. prædictos Attorn. ſuis. Et dict. eſt dicto Attorn. prædicti *A B* et *C D* per Cur.

hic

hic quod respondeat prædictis *A B* et *C D* magr. fuis dem *E F* in loquel. prædict. Et idem Attorn. pro d magris suis nihil dic. in Bar (sicut in aliis) per quod ctus *E F* damna sua versus *A B* et *C D* occasione c tionis et injuste derentionis averiorum suorum prædi rum recuperare debet: sed quia incognit. existit Cur. quæ damna idem E *F* sustinuit occasione præmissor. p cept. est dicto *I S* tunc Balliv. Wapentag. de *W* præd. un. Ministr. Cur. Com. præd. quod ven. fac. coram d Vic. ad prox. Com. præd. scilicet, xv die *Maii*, anno pradicto apud Castr. Ebor. prædict. tunc prox. seque tenend. duodecem probos et legales homines de Vicin. *S* per neutr. parte suspect. ad inquirend. super sacram. um quæ damna idem E *F* sustinuit tam occasione cap nis et injuste detentionis averiorum prædictorum, qu pro missis et custag per ipsum circa sectam suam in hac p te expens. idem dies dat. eidem E *F* hic, *&c.*

Ad quam quidem prox. Com. eodem xv die *Maii*, no præd. coram dicto Vic. Com. prædict. tent. ven. id E F per Attorn. suum prædictum, & idem I S Balliv. W pentag. prædict. præceptum suum inde non misit: Id sicut prius præcept. est præfat. I S Balliv. &c. quod ve fac. hic ad prox. Com. coram eodem Vic. Com. prædict scilicet. xii die *Apr.* anno supradicto apud Castrum Eb præd. tenend. xii, &c. ad inquirend. &c. in forma pr dict. &c.

Ad quem diem, scilicet, xii die *Aprilis* prædicti com eodem Vic. Com. præd. ven. prædict. E F per Attorn. s um prædict. Et idem I S Balliv. &c. & un. Ministr. ej dem Cur. retornavit coram eodem Vic. dictum præcep de ven. fac. in omnibus servit. & execut.

Et unde Jurat. inde impanellat. & exact. ven. & inquirend. in forma prædicta jurat. & onerati dicunt sup sacram. suum, quod prædict. E F ratione captionis & i juste detentionis averiorum prædictorum, damna sustinu ultra misis & custag. per ipsam circa sectam suam in h parte exposita, ad xxx s. & pro eisdem misis & custag. xii d. Ideo considerat. est per Cur. hic, quod prædict E F recuperet versus eosdem A B & C D damna su

præd.

præd. per Jurat. præd. in forma prædict. assessat. ac etiam xvi s. eidem E F per Cur. hic pro prædictis missis & stag. ex assensu suo de incremento adjudicat. quæ quidem damna in toto attingunt ad 57 s. & iidem A B & C D miser. &c.

Unde præcept. fuit eidem I S Balliv. Wapentag. de W præd. quod de bonis & catallis eorum idem A B & C D in Balliva sua fieri fac. damna prædicta, & quod denar. habeat coram Vic. prædict. ad proxim. Com. suum apud Castrum Eborum tenend. scilicet, x die *Marcii*, anno prædicto, ad reddend. præfat. E F pro damnis suis prædictis: Unde idem E F pet. quod prædict. A B & C D assignet. & narret Cur. quid vel in quo falsum judicium sibi fact. est, siquid probari possit vel liquet, &c.

Et super hoc iidem *A B & C D* dicunt, quod dict. Record. vitiosum & quamplurimum defectivum existit in hoc, scilicet, quod per idem Record. patet, quod eadem averia capt. fuer. xv die *Januarii*, anno suprad. & quod loquela inde levata fuit ad Com. Vic. xix die *Decembris*, anno suprad. sic quod loquela illa levata fuit ante captionem averior. prædictor. &c. Ac etiam in hoc, quod per Record. illud patet quod Com. præd. tent. fuit coram Vic. Com. præd. cum eadem Cur. tenuisse debet coram Vic. & sectator. ejusdem Cur. ita quod eadem loquela levata fuit coram non Judice & Processu. inde adjudicat. sine ullo Warrant. in Lege: Et sic iidem A B et C D dicunt, quod in Com. prædict. fals. judic. sibi fact. fuit in loquela prædicta; et petunt quod judic. prædict. pro erroribus illis & aliis in eodem Recordo & processu. existend. revocetur, adnihilatur, & penitus pro nihilo habeatur; & quod ipsi omnibus quæ occasione judicii prædict. amiser. restituuntur, &c. *Error assigned.*

Præcept. fuit Vic. quod si *A B* securum fecerit Vic. præd. de clamore suo prosequend. quod tunc assumpt. secum quatuor discret. & legalibus Militibus Com. præd. in propria persona sua accederet ad Cur. Honor. de P & in plena Cur. ibidem recordari fac. loquel. illam quæ fuit in eadem Cur. Dom. Regis, inter C D & eundem A B in quodam *A Record upon an Accedas ad curiam upon false judgment.*

quodam placito transgressionis super casum eidem CD
eundem A B illata ut dicitur: Unde idem A B quæru
falsum sibi factum fuisse judic. in eadem Cur. et quod
beat ibi Record. ad hunc diem, scilicet, *Octab. Hill.* sub
gillo suo, et per quatuor legales homines ejusdem Com.
illis qui Recordo illo interfuer. et quod summoneat p
bonos summonitor. eundem C D quod hic sit ad audie
Record. illud.

Et quod habeat tunc hic nomina quatuor Militum,
istud breve, *&c.* et modo ad hunc diem hic, scilicet, *Oct*
Hill. ven. tam præfat. *A* B per S D Attorn. suum, qui
prædict. C D per P P Attorn. suum.

Et Vic. scilicet, G M *Ar.* nunc retornavit quod idem *A*
invenit eidem Vic. plegios de clamore suo prosequen
Jo. Doo, et *Ric. Roo*; et quod præfat. C D sum. su
quod hic sit ad hunc diem per *Jo. Den*, et *Ric. Fen*;
quod ipse virtute ejusdem brevis sibi direct. secum
sumpsit I S, W P, I H, et W W, quatuor diser. et l
gales Milities Com. prædict. et in propria persona sua
cessit ad Cur. præd. tent. apud P in Com. predicto xv
Octobris, anno Regis nunc xiiii et in plen. Cur. Record
fec. loquel. cujus in eadem brevi fit mention. quod quide
Record. hic ad hunc diem habet sub sigillo suo et sigill
quatuor legalium hominum predictorum qui recordo ill
interfuer. prout per idem breve sibi precept. fuit, ad r
spondend. C D in loquela predicta; unde idem *A* B
eundem Cur. in loco suo posuit S D *Attorn.* suum in l
quel. predicta: Et predictus C D ad eandem Cur. per *A*
torn suum predictum questus est versus eundem *A* B pr
eo, videlicet quod cum idem C D ultimo diem *Decembr.*
anno predicto apud W predict. et infra jurisdictionem
Cur. predict. possessionat. fuit de una panni lanis, *Anglice*
Woollen Cloth, contin. undecem ulnas, precii xxxiiii s.
de bonis et catallis suis propriis.

Et sic inde possessionat. existen. idem C D eandem pe
panni manibus et possession. suis casualiter amisit, que qu
dem pec. panni postea, scilicet, xii die *Febr.* tunc proxim
sequend. ad manus et possession. dicti defendentis per in
vention. devenit, predictus tamen defendens dictam pe

pec. panni propr. pec. panni esse querentis sciens, et ei de
ore spectare et pertinere, et machinans et intendens eun-
dem querentem de eadem pec. panni callide et subdole de-
cipere et defraudere eandem pec. panni, licet ad hoc faci-
end. tertio die *Marcii*, anno supradicto, apud *&c.* requi-
sit. fuit, non deliberavit, sed eandem pec. panni postea, sci-
licet, xviii die *Marcii* tunc proxim. sequend. apud W
præd. infra jurisdictionem hujus Cur. prædict. ad usum su-
um proprium convertit et disposuit, ad damnum *dict.* que-
rend. xxxix s. Et inde produc. sectam, &c. Et dictus de-
fend. ad eandem Cur. per. licentiam interloquend. usq;
proxim. Cur. et habeat, &c. Idem dies dat. est dicto que-
renti tunc ibidem, &c. Ad quem proxim. Cur. tent. infra
dictam Honor. de P xxvi die *Maii* tunc prox. sequend.
ven. tam dictus querens quam prædictus defendens per At-
torn. suos prædictos, et idem defend. per. ulterior. licenti-
am interloquend. usq; prox. Cur. infra dictam Honor. te-
nend. et habeat, &c. Idem dies dat. est dicto querenti tunc
ibidem, &c. Ad quam quidem proxim. Cur. tent. infra
honor. prædictam xxvi die *Maii* tunc prox. sequend,
ven. tam idem quer. quam idem defend. per *Attorn.* suos
prædictos, et super hoc dictus defend. per. ulterior. licent.
interloq end. usque proxim. Cur. Honor. prædict. tenend.
et habeat, &c. Idem dies dat. est dicto querend. tunc ibi-
dem, &c.

Ad quem quidem Cur. tent. infra dict. Honor. die
&c. tunc proxim. sequend. ven. tam dictus quer. quam
prædictus defend. per *Attorn* suos prædictos, et idem de-
fend. adtunc defend. vim et injur. quando, &c. Et dixit
quod ipse in nullo fuit culpabil. de præmissis superius su-
per ipsum imposit. prout prædictus querend. per Narra-
tion. suam prædictam versus eum quæsus est. Et de hoc
pon. se super patriam, et prædictus quer. similiter. Unde
tunc præcept. fuit Balliv. Honoris prædict. quod venire
fac. ad Cur. Honor. prædict. tenend. xii liberos et legales
homines Honor. predict. ad eriand. exit. præd superius
juncte. Idem dies dat. est partib. prædictis tunc ibidem, &c.

Ad quam quidem prox. Cur. tent. infra honor. prædict.
die, *&c.* tunc prox. sequend. ven. tam dictus querens
quam dict. defend. per *Attorn.* suos predict. et predict. Ball.

retornavit pannellum cum nomin Jur. de quibus xiie
act. ven. & Jurat. fuer. & dixerunt ſuper ſacram. ſu
quod prædictus C D poſſeſſionat. fuit de dict. pec. pan
in narrationem ſua prædicta ſuperius ſpecificat. Et qu
eadem pec. panni per invention. ven. ad manus dict. A
Et quod prædictus quærens eundem A B deliberare eid
quærent. eandem pec. panni requiſivit; & quod prædict
Def. non deliveravit eandem dicto quærend.

Et ulterius, iidem Jur. dixer. quod dictus Def. in ma
bus ſuis adhuc detinet eandem pec. panni; & ſi ſuper
tam materiam in forma prædictam compert. eundem D
eſſe culpabil. de præmiſſis in narration. prædicta ſpecific
vel non Jur. prædict. omnino ignorant. & pet. adviſame
Cur. de præmiſſis; & ſi ſuper totam materiam in form
prædicta compert. videtur Cur. quod dictus defend. culp
bilis eſt de præmiſſis in narration. prædicta ſpecificat tu
dicti Jur. dicunt ſuper ſacram. ſuum quod præd Def.
præmiſſis in narration. prædicta ſpecificat. eſt culpabil
Et tunc iidem Jurat. aſſident damna occaſione præmiſ
rum ultra miſis & cuſtag. per ipſum circa ſectam ſuam
hac parte expenſ. ad vigint. ſolid. & pro miſis & cuſtag.
lis ad xii d. Et ſi ſuper totam materiam in forma prædic
compert. videtur Cur. hic quod dictus Def. non eſt culp
bilis de præmiſſis in narration. prædicta ſpecificat. tu
Jurat. prædicti ſuper ſacram. ſuum dicunt quod dictus
fend. non eſt culpabilis de præmiſſis in narration. prædic
ſpecificat. Et quia eadem Cur. ſe adviſare volunt de
ſuper premiſ. antequam judic. inde reddant, dies dat.
partibus prædictis hic uſq; prox. Cur. tenend. infra Hon
prædict. ad audiend. inde judic. ſuum, &c. Ad quam q
dem Cur. tent. infra Honor. præd. die, &c. tunc pr
ſequend. ven. tam dictus quer. quam præd. def per
torn. ſuos prædictos. Et quia Cur. de reddend. judic. in
nondum adviſatur, dies dat. eſt partibus prædictis quo
prox. Cur. de audiend. inde judicium ſuum, &c. Ad qu
quidem Cur. tent. in Honor. prædicta die, &c. tunc pr
ſequend. ven. tam dictus quær. quam prædictus
per Attorn. ſuos prædict. ſuper quo præmiſ. viſis &
Cur. hic plen. intellect. videtur Cur. hic quod idem
eſt culpabilis de præmiſſis in narration. prædicta ſpec
cat. Ideo conſideratum eſt per eandem Cur. quod id
quæ

quærens recuperet verſus def. præd. dictos xxi s. per Jurat. præd. in forma prædicta aſſeſſat. ac etiam xxii s. pro miſis & cuſtag. ſuis per Cur. hic ex aſſenſu ſuo de incremento adjudicat. que quidem damna in toto attingunt ad 43 s. Et idem *A B* in miſ. &c.

Et unde idem C D pet. quod præfat. A B oſtendat Cur. hic & aſſignet. defect. ubi falſ. judic. ſibi fact. eſt in dicta loquela in eadem Cur. ſiquid fact. ſit. Unde idem A B dic. quod idem Record. vitioſam eſt, & multum defectivum; & quod falſ. judic. ſibi fact. eſt in dicta loquela, in hoc, quod in Recordo prædicto nulla fit mentio cujus eſt Cur. Honor. de P & in hoc, quod nulla mentio fiat quis eſt Dominus ejuſdem Cur. neq; qui ſunt ſectatores ejuſdem: ac etiam in hoc, quod Jurator. non inveniunt quod prædictus A B eandem pec. panni ad uſum ſuum proprium convertit; Et ſic idem A B dic. quod multis modis in dicta Cur. falſum judicium ſibi fact. eſt in loquela prædicta.

Et pet. quod dictum judicium pro erroribus diverſis & aliis in recordo exiſten. tanquam falſ. & vitioſ. revocetur, & pro nihilo habeatur. Et quod ipſe omnibus quæ occaſione dicti falſi judicii amiſit, reſtituatur: Et quod Juſtic. hic procedant ad examinand præmiſ. Et quia Juſtic. hic, &c.

SOME SELECT PRESIDENTS OF DECLARATIONS AND PLEADINGS Incident and belonging to this COURT.

Debt.

Narr. Executor. versus Exec. super Billum.

Ebor. ff. EF. Executor. teſtamenti et ult. voluntatis I F defunct. virtute brevis de Juſticies Vic.' Com. præd. direct. per I S *Attorn* ſuum queritur verſus M W executor. ult. voluntar. et teſtamenti R W nuper de T in Com. *Ebor. Husbandman* defunct. al. dict. R W de T in Com. *Ebor. Husbandman*, de placito quod reddat ei 7 l. *&c.* quas ei injuſte detinet, *&c.* pro eo quod cum predictus R W in vita ſua, videlicet, xx die, *&c.* anno, *&c.* apud Caſtrum Ebor. in Com. *Ebor.* et infra juriſdictionem hujus Cur. per billam ſuam obligatoriam ſigillo ſuo ſignat. et hic in Cur. prolat. gerend. dat. die et anno predicto, cognoviſſet

noviſſet ſe debere prefat. I F in vita ſua integr. et juſtam ſummam 7 l. *&c.* ſolvend. eidem I F hered. execut. adminiſtr. vel aſſignat. ſuis, in vel ſuper tertium die *Maii*, prox. ſequend. dat. ejuſdem bille; et pro ſolutione earum idem prefat. R W tunc et ibidem pro bill. predictam obligaſſet ſe, *Executores*, adminiſtr. et aſſign. ſuos: predictus tamen R W in vita ſua, licet ſepius requiſit. predictas 7 l. eidem I F in vita ſua, ſeu predicto M W poſt mortem *ipſius* I F non ſolvit, *&c.* ſed predictus R W in vita ſua eaſdem ſolvere eidem I F in vita ſua recuſavit; et predictus M W ſimilit. poſt mortem pred. R W eaſdem prefat. *E* F poſt mortem dicti I F ſolvend. recuſavit, et ad hoc faciend. adhuc recuſat, et eaſdem injuſte detinet; ratione cujus predictus *E* F dic. quod damn. habet ad valenc. x l. et inde produc. ſectam, *&c.* *Et* profert hic in Cur. litteras teſtamentar. predictas, per quas ſatis liquet Cur. hic predict. E F fore execut. ult. volunt. et teſtamenti predicti I F defunct, *&c.*

Upon a Bill to be paid at the day of Marriage, and iſſue upon it.

TN, et *E* uxor ejus adminiſtrat. bonor. et catallor. que fuer. T B defunct. queruntur S D *Attorn.* ſuum verſus I H de C in dicto Com. Gen. de placito quod reddat eis 5 l. quas eis injuſte detinet, *&c.* quare cum predictus I H (*tali* die et anno et loco) per quandam billam ſuam obligator. ſigillo ſuo ſignat. & hic in Cur. prolat. cujus dat. eſt eiſdem die et anno, pro et in conſideration. unius annuli aurei, cum quodam lapide vocat. *a Diamond* in eodem annulo impreſſo, quem de predicto T B in vita ſua recepit die confectionis ejuſdem bille, cognoviſſet et conceſſiſſet a ſe et cum predicto T B in vita ſua, quod ipſe idem I H exec. vel aſſign. ſui ſolverent vel ſolvi facerent prefat. T B exec. vel aſſign. ſuis pro eodem annulo, *tali* die et tempore qual. ipſe idem I H uxorem ducet et, vel nuptus foret, vel ad aliquod aliud tempus poſt deſponſalia ſua quandocunq; requiſit. fuiſſet per pred. T B exec. vel aſſign. ſuos, ſive per ipſum qui billam predict. afferret dictam ſummam 5 l. ad ejus vel eor. uſus predicto tempore ſolvend. *Et* pred. T N et *E* in facto dic. quod pred. I H poſt confection. bille illius, ſcilicet, *Ebor. ſſ.*

(tali die, anno & loco) infra Eccleſ. Parochial. de H in uxorem duxit quendam I D per quod action. accrevit eidem T B in vita ſua, ac eidem E poſt mortem ipſius T dum ſola fuit, & prædictis T N & E poſt deſponſalia inter eos celebrat. ad extigend & habend. de prædict I H eidem 5 l. prædictus tamen I H licet ſepius requiſit prædict. 5 l. eidem T B in vita ſua, vel præfat. E dum ſola fuit cui adminiſtrator. ominum bonorum & catallorum que fuer. pred. T B tempore mortis ſue (tali die, anno & loco) per talem Epiſc. commiſ. fuit, nec predictis T N & E poſt deſponſal. inter eos celebrat. non reddidit, ſed illas eiſdem reddere contradixit; Et illus prefat. T N & E reddere adhuc contradicit & injuſte detiner: unde dic. quod deteriorat. ſunt & damn. habent ad valenc. x l. Et inde produc. ſectam, &c. Et proferunt hic in Cur. litteras adminiſtrator. &c.

Barr infra ætatem.

ET predictus I F per R B Attorn. ſuum ven. & defend. vim & injur. quando &c. Et dic. quod predicti T N & E actionem ſuam predictam verſus eum habere non debet, quia dic. quod ipſe tempore confectionis Bille predict. fuit infra ætatem vigint. & unius annorum, et hoc parat. eſt verificare: unde pet. judic. ſi prefat. T N et E actionem ſuam predictam verſus eum habere debent, *&c.*

Replicat.

ET predicti T N et E dicunt quod ipſi per aliqua prealiegat. ab action. ſua predicta habend. precludi non debeant, quia dicunt quod predictus I H tempore confectionis Bille predicte fuit plene ætatis vigint. et unius annorum, ac non infra ætatem, prout predictus I H ſuperius allegavit: et hoc pet. quod inquiratur per patriam, et pred. I H ſimiliter; Ideo precept. eſt Vic.

Debt

Debt ſur retainer.

A B per S D Attorn. ſuum queritur verſus C D de placito, *&c.* pro eo quod cum predictus C D (tali die et anno) apud S *&c.* retinuiſſet eundem *A B* ad imponend. ſuper pedes equorum predicti C D quadragint. novas ſoleas ferreas, Anglice *Horſe-ſhooes*, et ad removend. quadragint. ſoleas ferreas, et ad emendand. un. par inſtrumentorum ferreorum ad aratrum pertin. et ad faciend. un. focariam, anglice *a Fire-ſhovel*, ac ad recipiend. de predicto C D pro impoſitione quadragint. novar. ſolear. ferrear. predictar. et quadragint. remotionibus xxi s. Et ſic pro alter. parcell. ſolvend. eidem *A B* cum inde requiſit. fuiſſet; virtute cujus retentionis prefat. *A B* predictas quadragint novas ſoleas ferreas et quadragint. remotiones ſuper pedes equorum ipſius C D impoſuit, *&c.* per quod action. accrevit, *&c.* *Hill* 37 *Eliz. Rot.* 517. *Ebor. ſ.*

Debo for money borrowed.

E B queritur verſus T A de placito quod reddat. ei xii l. *&c.* quas ei debet, et injuſte detinet, *&c.* pro eo cum 3 die *Maii*, anno Regni Dom. Regis nunc *Caroli* Secund, *&c.* xiiii apud, *&c* prefat. E B et dictus T *A* inſimul computaſſent de et pro diverſis denar. ſuum tunc et ante tempus illud debit. et inſolut. per eundem T *A* eidem E B & ſuper eundem computat. idem *T A* ad hunc et ibidem cognovit ſe in arrerag. eſſe et indebitat. eidem E B ſuum xii l. ſolvend. prefat. E B cum idem T *A* inde requiſit. fuiſſet: predictus tamen, *&c.*

Money lent by Joynt-Partners for a certain time, and to be paid to the Survivor.

R K *&c.* queritur verſus W *A* de placito quod reddat ei xx s. quos ei debet et injuſte detinet, *&c.* pro eo cum *Ebor.*

ult. die *Febr.* anno Regni Dom. Regis nunc Angl. xiiii ap
Caſtr. &c. prefat. R K, & quidam R W nunc defunct. co
ſortes de denar. & aliis commoditatibus exiſtend. mutuo
derunt eidem W A 3 l. legalis, &c. ſolvend. eis vel
perſtit. eorum die lune Paſchal. tunc proxim. ſequend.
quibus 3 l. prefat. W A prefat. R K & R W in vita ſua
vit ſuum 40 s. & tunc ibi reman. inſol. ſuum viginț. ſe
dorum: poſtea & circa Nativitat. Chriſti, anno dicti Dc
Regis nunc xiiii dictus R W obiit, & pred. R K eum ſupe
vixit per quod actio accrevit eidem R K ſoli ad habend.
exigend. de predict. W A predictos xx s. predictus tam
W A licet ſepius ad hoc requiſit. predictos xx s. pred
R K nondum reddidit, ſed ill. ei hucuſq; reddere recuſa
& adhuc recuſat: unde idem R K dic. quod deteriorat.
& damnum habet ad valenc. xxxix s. xid. & inde prod
ſectam, &c.

For Rent in Arrear.

Ebor. ſſ. R M per, &c. queritur verſus H D de placito quod re
dat ei xxx s. quos ei debet & injuſte detinet. &c. p
eo quod idem R M x die *Aprilis*, &c. apud Caſtrum, &
dimiſit, conceſſit, & ad firmam tradidit eidem H D un. co
tag. ſive dom. mantional. un. hort. & quatuor acr. ter
arabil. prat. cum pertin. jacend. & exiſtend. apud W
Com. prædicto: habend. & tenend. dicta cottag. ſive dom
mantional. hort. & terr. arabil. prat & paſtur. cum pe
tin. eidem H D & aſſign. ſuis, ab Annuntiat. beate *Mari*
Virgin. vulgariter vocc *Lady-day*, tunc ult. preterit. pro. & du
rand. termino trium annorum extunc proxim. ſequend
plenar. complend finiend. & terminand. reddo & ſolvend
inde annual. redd. predictis premiſ. eidem R M pro ann
primo trium annorum predictor. redd. trium librar. i
denar. numerar. & in manibus ſolvend. eidem R M & 3
10 s. &c. annuatim ſolvend. eidem R M pro al. duobus a
nis reſid. dicti termini ad feſta Sancti *Mich.* Archang. & An
nuntiat. beate *Mariæ* Virgin per conſimiles & equales po
riones: Virtute cujus demiſſiones, idem H D in dicta co
tag. ſive dom. mantional. & cetera premiſſa intravit, & fu
& adhuc exiſtit inde poſſeſſionat. Et quia 35 s. pro d
mi

mid. ann. finit. ad feſtum Sancti *Mich.* Archang. anno, &c. ſunt in arrerag. & inſol. prefat. R M ideo actio accrevit eidem R M ad exigend. & habend. de predicto H D dictos 35 s. predictus tamen H D licet ſepius requiſit. pred. 35 s. eidem R M hucuſque reddere & ſolvere contradixit, & adhuc reddere & ſolvere contradicit, ad damnum ipſius R M 39 s. Et inde produc. ſectam.

For Servants wages.

A W per, *&c.* queritur verſus I S de placito quod reddat ei 24 s. &c. quos ei debet & injuſte detinet, pro eo quod cum pred. I S die, anno, &c. apud Caſtrum, &c. retinuiſſet eundem A W ad deſerviend. dict. I S in loco ſervientis, uſque ad feſtum Sancti *Martini* Epi. in Hyeme tunc proxim. ſequend. ad agend. & exequend. legales occaſiones & mandata prefat. I S per tempus predictum, ſolvend. inde eidem A B 12 d. &c. quod predictus I S adtunc & ibidem ſolvit prefat. A W ac etiam 24 s. ultra, &c. pro Salar. ſuo durand. termino predicto, ad dictum feſtum Sanct. *Martin.* anno, &c. predicto. Et predictus A W in facto dic. quod ipſe juxta retentionem predictam deſerviebat dicto I S in loco ſervientis, & fecit, & peregit legalia mandat. & occaſiones prefat. I S per tempus predictum, apud, &c. Et quod 24 s. pro ſalar. ſuo pro ſervic. ſuo per tempus predictum debit. ad feſtum Sancti *Martin.* Epi. in hieme anno, &c. ſuperius mentionat. adhuc eſt in arrerag & inſol. per predictum I S eidem A W per quod actio accrevit eidem A W ad habend. & exigend. de prefat. I S dict. 24 s. predictus tamen I S licet ſepius requiſit. &c.

For not ſetting forth of Tythes.

R H firmar. omnium & ſingular. decimar. feni creſcend. *Ebor. ſ.* inf a Paroch. de F in Com. Eborum, virtute brevis de

de Justic. per R N Attorn. suum queritur versus T W de placito quod reddat. ei 6 l. &c. quas ei debet et injuste detinet, pro eo quod cum prefat. T L die, anno, &c. possessor fuit et Occupator de quatuor acr. prati in Paroc. predicta; et sic inde possessionat. existend idem T W tunc et ibidem herbam crescend. in et super predict. quatuor acras prati defalcavit, et duo plaustra onorat. ibidem attingend. ad valorem x s. adtunc et ibidem cepit et asportavit, ante aliquam extra position. et separation. decimarum predictar. sive decimo partis ejusdem a novem inde partibus, vel composition. predictis decimis sive decimo parte inde: quod predictus T W fecit contra formam Statuti, anno 5 *Ed.* 6. in simil. casis edit. provis. Unde actio. accrevit eidem R H ad habend. et exigend. de prefat. T W easdem 6 l videlicet, pro triplici value ejusdem sepe sic asportat. predict. tamen T W licet sepius requisit, &c.

Upon an Award.

R K virtute, &c. per E B Attorn. suum quæritur versus H S pe placito quod reddat. ei x l. quas ei debet et injuste detinet, &c. pro eo cum 25 die A anno, &c. apud Castr. &c. conclus. fuit et agreat. inter prefat. H S ex una parte, & pred. R F ex alter. parte, quod ipsi et eorum utriq; a quiescunt et astarent Ordin. arbitriam & judicium I D & M L, de omnibus & singulis sect. perturbat. litib. debit. transgression. vel quibuscunq; quæ ante hac inter eos fuer. in aliquo genere negotiat. a principio mundi ad diem dat. dicti scripti, existend. dicto 25 s. die A vel aliter ut altera parte eodem arbitrio non acquiesc. alteri parti satisfacere suum x l. &c. Et pro confirmation. ejusdem eor. utriq; man. & sigill. eorum imposuer. die & anno supra script. apud Castr. prædict. &c. prout per idem script. (ad ostendend. huic Cur. parat.) liquet. Et cum postea, scilicet, die, anno, &c. apud Castrum, &c. prædicti I D & M L super se assumpser. onus præmissorum per ordinem eorum script. gerend. dat. eisdem die & anno ult. superius mentionat. & hic in Cur. ostensum arbitraver. ordinaver. & adjudicaver. quod præfat. R F tunc deliberaret eidem H S unam parcell. turbasis, anglice *Starch* in man. dicti R F & bagum

Per quoddam scriptum factum.

qua turbasis posit. est, affirmat. esse bonorum dict. H S super visum dict. Ordinis. Et ulterius per ipsam ordinem Ordinaver. & adjudicaver. quod præd. H S solvat vel solvi faciat eidem R F super visum hujus Ordinis suum, &c. Et quod omnia illa secte debit. transgr. sive lites quæcunq; a principio mundi usq; ad prædictum 25 diem, &c. desistent & terminentur, aut aliter pars eadem ordine non acquiescend. forisfacer. et sicut in dicto ordine exprimitur suum x l. prout per dictum arbitrium sigillat. dictis die & anno, &c. per dictos arbitratores, & hic in Cur. ad ostendend. parat. satis liquet: Et idem R F in facto dict. quod licet ipse peregit omnia in dicto arbitrio ex parte ejus peragend. prædictus tamen H S non performavit aliquid in dicto arbitrio ex parte sua performand. Et idem quer. in facto dict. quod dictus H S non solvit præfat. R F super visis ordinis existend. die & anno, &c. apud Castrum, &c. suum de 50 s. &c. per quod actio accrevit eidem R F ad exigend. & habend. de predicto H S dict. x l. prædictus tamen H S licet sepius ad hoc requisit. prædict x l. eidem R F nondum solvit, sed eadem solvere, &c.

Pro Feodis Attorn.

RA. Gen. &c. per T S Attorn. suum queritur de W P de placito quod reddat ei 37 s. 2 d. quos ei debet & injuste detinet, pro eo quod cum prædictus W P die, anno, &c. apud Castrum Eborum remansisset eundem R A esse nd. Attorn. ipsius W P in Curia Com. T S Vic &c. tent. apud Castr. Ebor. in Com. Ebor. coram sectator. ejusdem Cur. ad prosequend. tanquam Attorn. ipsius W P pro eodem W P in quadam action. in nomine ipsius W P versus quendam C C de placito debit. a dictis die & anno, &c. tamdiu ambabus partibus placeret, capiend. inde pro feod. & labore suum in ea parte sustent. quolibet die quo idem R A præfat. W P secta illa sic exitit, ii s legalis, &c. Ac ultra feod. illud rationabil. misas & expens. per eundem R A in & circa prosecutionem actionis prædicte solvend. & deponend. virtute cujus retentionis, idem R A Attorn. ipsius W P prædict. fuit pro octo curiis Com. tunc prox. sequend. & quod deposuisset Clerico & al. Ministr. ejusdem *Ebor. ss.*

Cur.

Cur. in et circa prosecution. ejusdem secte xx s. ii d. qui quidem xx s. ii d. una cum xvi s. pro feod. suis ctis octo Curiis in toto attingunt ad 37 s. 2 d. &c. cujus actio accrevit eidem R A ad exigend. et habend. prefat. W P pred. 37 s. 2 d. predictus tamen W P pius requisit. predictus, &c. eidem R A non reddidit ill. ei hucusq; reddere omnino recusavit, et adhuc ad grave damn. ipsius R A unde dic. quod deteriorat. et damn. habet ad valenc. 35 s. Et inde produc. sect. &c.

Upon a Lease for Tythes.

Ebor. ss. W T per B. *Attorn.* suum queritur de R R de pl. quod reddat ei xx s. &c. quos ei debet injuste det. pro eo quod cum predictus W T ii die *Novembris*, a. &c. apud, &c. tunc firmar. Rectorie de S existend. uno anno integro tunc proxim. sequend. dimisisset ei R R omnes decimas granorum existend. de et super s. eras et tres Rodus terr. arabilis existend. parcell. ter. P in W pred. ac parcell. dicte Rectorie, pro viginti s. &c. solvend. eidem W T modo et forma sequend. 12 s. super festum Sancti *Marci* Evangelisto tunc prox. quend. et alt. oct. solid. super festum Sancti *Martini* in hyeme tunc proxim. sequend. predictus tamen R R cet sepius ad hoc faciend. requisit. pred. 20 s. eidem nondum reddidit, sed ill. ei reddere contradixit, et a. contradic. Unde idem W T dic. quod deteriorat. est damn. habet ad valenc. 30 s. Et inde produc. sect. &c.

Upon a Bond for a surviving Obligee.

IP virtute brevis de Justic. &c. queritur versus M M S. *Yeoman.* al. dict. M M de S. *Yeoman*, de placito q. reddat ei 40 l. &c. quas ei debet et injuste detinet, pro eo quod cum dictus M M 2 die *Maii*, anno, &c. ap. &c. per quoddam scriptum suum obligator. sigillo signat. et hic in Cur. prolatum, cujus dat. est die et a.

supradictis, conceſſiſſet ſe debere et firmit. obligari preſat. I P et E G nuper de Civit. Ebor. defunct. in ſum. 40 l. ſolvend. eiſdem I P et E G vel eorum alteri cum inde requiſit. fuiſſet: qui quidem E G poſtea, et ante profecutionem hujus ſecte mortuus eſt, et predictus I P ipium ſupervixit, per quod actio accrevit eidem I P ad habend. et exigend. de pred. M M prædict. 40 l. prædictus tamen M M licet ſepius requiſit. pred. 40 l. eidem E G non reddidit, nec preſat. I P poſt mortem ipſius E G non reddidit, ſed ill. ei reddere, &c.

Upon the ſame.

IN virtute, &c. quæritur verſus W H de L. al. dict. &c. de placito quod reddat. ei 20 l. quas ei debet et injuſte detinet, &c. pro eo quod cum predictus W H (tali die et anno) apud, &c. per ſcriptum ſuum obligatorium cognoviſſet ſe teneri eidem I H et cuidam M H nunc defunct. quem dictus I H ſupervixit, in predictis 20 l. ſolvend. preſat. I H et M H vel eorum alteri cum inde requiſit. fuiſſet; predictus tamen W H licet ſepius requiſit. predictas 20 l. eiſdem I H et M H vel eorum alteri in vita dicti M H aut preſat. I H poſt mortem dicti M H qui, &c. non reddidit, ſed ill. ei reddere contradixit, et ill. preſat. I H adhuc reddere contradicit: Unde dic. quod deteriorat. et damn. habet ad valenc. 20 l. Et inde produc. ſectam, &c. Et profert hic in Cur. ſcriptum predictum quod debitum predictum in forma predicta teſtatur, cujus dat. eſt die et anno ſupradictis.

Upon a Bond for an Executor againſt Siſters as Co-heirs, one of them being married.

TP Executor. teſtamenti W P virtute brevis, &c. quæritur de R M nuper de L. mil. & A uxor. ejus & L B nuper de L *Spinſter*, filie & Co-hered. C B nuper dict. C B, &c. de placito quod reddant ei 80 l. quas ei injuſte

injuſte detinent, &c. pro eo quod cum prædictus C B ter dictarum A & L cujus hered. ipſe ſunt, in vita ſua, *Junii*, anno, &c. apud, &c. per ſcriptum ſuum obligat cognoviſſet ſe teneri præfat. W P in vita ſua in præd. 8o l. ſolvend. eidem W P cum inde requiſit. fuiſſet, ad eandem ſolutionem bene & fidel. faciend. præd. obligaſſet ſe & hered. ſuos, per idem ſcriptum : præd. tamen C B in vita ſua & predicte A & L filie & Cohe præfat. C B poſt mortem ipſius C B dum ſole fuer prædict. R & A & L poſt deſponſal. int. coſdem celebrat. licet ſepius requiſit. prædictas 8o l. eidem in vita ſua, vel præfat. T P poſt mortem ipſius W P reddider. ſed ill. eis reddere contradixer. & præd. R A L ill. eidem T P adhuc reddere contradicunt & in derinent ; unde dic. quod deteriorat. eſt & damn. ad valenc. x l. & inde produc. ſectam, &c. Et profert tam ſcriptum prædictum, &c. quam litteras teſtame rias, &c.

Upon a Bond againſt an Adminiſtrator, for Adminiſtrator, during the minority of the E ecutor of an Executor.

Ebor. ſſ. W T et E ux. ejus Adminiſtratrix bonorum et cata rum que fuer. E *A* nuper de *H* Execut. teſtamenti E de T virtute brevis, *&c.* quæritur verſus M C *&c.* miniſtratricis bonorum et catallorum quæ fuer. R C obiit inteſtat. *&c.* nuper dict. R C de T in Com. Ebor Gen. de placito quod reddat. eis 40 l. quas eis injuſte tinet, *&c.* pro eo quod cum prædictus R C in vita quarto die *Januarii*, anno, *&c.* apud, *&c.* per qu dam ſcriptum ſuum obligatorum conceſſiſſet ſe ten prædicto E *A* de T in vita ſua in prædictis 40 l. ſolvet eidem E *A* cum inde requiſit. fuiſſet ; prædictus tam R C in vita ſua, et prædict. M C poſt mortem ipſius cui adminiſtration. omnium bonorum et catallorum fuer. dicti R C tempore mortis ſue, tali die, *&c.* Ebor. præd. poſt mortem dict. R C commiſſu fuit, licet pius requiſit. prædictus 40 l. præfat. E *A* de T in vita aut prædicto E *A* de H in vita ſua poſt mortem dict.

de T vel dict. E poſt mortem dict. E *A* de H dum ſola fuit, cui adminiſtration. omnium bonorum et catallorum præfuer. prædicti E *A* de H tempore mortis ſue durant. minori ætate dict. E *A* Jun. Execut. teſtamenti dict. E *A* de H qui quidem E *A* adhuc eſt infra ætatem, ſcilicet, quatuor decem annorum, et non ultra, per *A* provident. divina tunc Ebor. *A*rchiep. x die *Maii*, anno &c. apud Ebor. poſt mortem dicti E *A* de H commiſſa fuit, vel prædictis W T et E poſt deſponſal. inter eos celebrat. non reddider. ſed ill. eis reddere contradixer. Et prædicta M C ill. præfat. W T et E adhuc reddere contradic. et injuſte detinet: Unde dic. quod deteriorat. ſunt et damn. habeat ad valenc. xxx l. Et inde produc. ſectam, &c.

Et proferunt hic in Cur. tam ſcriptum præd. quod debit. prædictum in forma prædicta teſtatur, cujus dat prædicto xiiii die *Januar*. &c. prædict. quam litteras teſtamentar. dict. E A de T, per quas ſatis liquet Cur. hic dict. E A de H, Executor. fore teſtamenti præfat. E A de T, & inde habuiſſe Adminiſtrat. &c. Ac etiam litteras teſtamentar. dicti E A de H, per quas ſatis liquet Cur. hic præfat. E A Jun. Exec. fore teſtamenti ejuſdem E A de H. Ac etiam litteras adminiſtrator. &c. quæ commiſſion. adminiſtrationis prædict. prædicto E, in forma prædicta teſtantur, &c.

For not delivering of a Pawn upon tender of the money borrowed.

A S virtute brevis, &c. queritur E P de placito quare prædictus A, primo die *Maii*, &c. apud, &c. mutuo accepit de prædicto E P xii l. &c. & adtunc & ibidem pignoravit, & in nomine pignoris dedit & deliberavit præfat. E P diverſa bona & catalla prædict. A S ad valenc. 172 l. legalis, &c. pro ſecuritate ſolutionis eidem E P prædictar. xiii. una cum intereſſe pro deferend. & dando diem ſolutionis dictar. xii l. juxta rat. 6 l. per cent. quouſq; prædictus A S prædictus xii l. prædict. E P reſolvat: Et præfat. E P adtunc & ibidem, videlicet, primo die *Maii*, anno, &c. prædict. apud, &c. in conſideration. præmiſſorum ſuper ſe aſſumpſit, & eidem A S adtunc & ibidem fidelit. *Ebor. ff.*

delit. promiſit quod ipſe preſat. E P bona & catalla pr
ſibi per preſat. A S antequam pignorat. & deliberat. eid
E P ſuper ſolutionem prædictarum 12 l. una cum int
eſſe pro prædictis 12 l. juxta rat. prædict. ſibi faciend.
ne & fidelit. redeliberaret & redderet: Et quamvis p
dictus A S poſtea, ſcilicet, 16 die S anno, &c. & ſepius
ſtea apud, &c. prædictas 12 l. una cum intereſſe pro
dem 12 l. juxta rat. 6 l. per cent. per totum tempus p
dict. E P plenar ad ſolvend. & ſatisfaciend. obtulit, p
dictus tamen E P promiſſionem & aſſumptionem ſuas p
dictus minime curans, ſed machinans & fraudulent. int
dens eundem A S in hac parte callide & ſubdole decip
& defraudare, prædictas 12 l. una cum tenore pro eiſd
12 l. juxta rat. prædictam de præfat. A S recupere, & b
& catalla prædicta eidem A S redeliberare, omnino recu
ad grave damn. ipſius A S &c.

Againſt a Carrier for loſs of goods delivered to him.

Ebor. ſſ. CB Ar. virtute, &c. quæritur de P M de placito tranſg
ſuper caſum, pro eo quod cum preſat. P M (tali die
anno) & diu antea, & ſemper poſtea, hucuſq; fuit, & a
huc exiſtit communis Geſtator, Anglice a *Common Carrier*
a Civitat. Eborum in Com. ejuſdem Civit. ad Vill. de S
dicto Com & a prædicta Vill. de S ad eandem Civitat. E
borum. Et idem P M eodem die & anno, & diu antea, a
continuo poſtea hucuſq; uſitat. & aſſuet. fuit per ſe & ſe
vientes ſuos ſuper equos ipſius P M bona & catalla pr
rationabili & legal. ſtipend. & ſalar. aliquibus perſon
in ea parte inde ſolvend. cariare ultrocitroq; inter prædict
Vill. de S & Civitat. Eborum juxta uſual. agreament.
ſolution. in ea parte faciend. & habend. Et cum etiam ſ
cundum leges et conſuetud. hujus regni *Angliæ*, omn
conſimiles Geſtatores qui bona et catalla de aliquibus per
ſon. recipiunt ſic geſtitand. pro rationabil. et legal. ſti
pend. ſive ſalar. inde dand. et ſolvend. obligat. ſunt a
conſervand. et geſtitand. eadem bona et catalla conſimilium
perſonarum ſic recept. ſine eorum ſpoliatione, detentione,
vel perditione; ita quod pro vel per defect. conſimili

commu

commun. Gestatoris nullum damn. ullo modo contingerit talibus personis per gestationem Cariagior. eorum. Et cum pred. P M predict. (tali die & anno) apud S. predictam in Com. predicto super se suscepisset cariari un. Riscum, anglice *a Trunk*, firmar. ferat. cum diversis denarior. suorum bonis & catallis predicti G B ad valenc. x l. in eosdem Risco tunc existend. tuto & sedulo a predict. Civit. Ebor. ad dictam Vill. de S, & pro cert. & usual. stipend. salar. & rat. pro gestatione ejusdem Risci denar. bonorum & catallorum predictor. per prefat. G predict. P M postea solvend. Et cum pred. P M postea, scilicet, (tali die & anno predict.) apud Civit. Ebor. predict. de ipso prefat. G B Riscum predict. recepit, cum denar. bonis & catallis predict. in eodem Risco ut predict. est ferat. in forma predicta gestitand. predict. P W Riscum predict. cum denar. bonis & catall. predictis de prefat. G B postea, scilicet, tali die & anno, tam negligenter et improvide conservabat & & cariavit, quod diversa denar. suum bona & catall. ipsius G B in eodem Risco ut predicitur ferat. scilicet, 5 l. in denar. numerat. un. par. &c. ad valenc. &c. per remissam custodiam ipsius P M adtunc & ibidem amissa fuer. Et quod ipse prefat. G B eodem denar. bona & catall. ulc. mentionat. a tempore illo usq; diem, &c. scilicet, tali die & anno, non recepit nec habuit, licet predictus P M per eundem G B postea, scilicet, tali die & anno, sepius requisit. fuisset denar. bona & catalla predicta eidem G B deliberare. Unde idem G B dic. quod damnum habet, &c.

For Coals, promising to pay so much as they should reasonably be worth.

JI &c. quæritur de R R de placito transgr. super Casum, &c. pro eo cum dictus R R die, anno, &c. apud Castrum, &c. In considerationem quod predictus I I ad requisitionem dict. R R barganizasset & vendidisset eidem R R undecim caractaras carbonum, super se assumpsit, & prefat. I I adtunc & ibidem fidelit. promisit quod ipse idem R R tantas denariorum summas quantas predicta undec. caractares carbonum rationab. valent, eidem I I cum

inde requisit. fuisset bene & fidelit. solvere & contenta vellet. Et præfat. I I in facto dic. quod prædictæ undec carectatæ carbonum rationabilit. valebant trigint. & solid. &c. prædictus tamen R R promissionem & assumptionem suas predictas minime curans, sed subdole & cal de intendens eundem I I in præmiss. defraudare & decipe licet septies requisit. prædict. trigint. & tres solidos eide I I non solvit, sed ill. ei hucusq; solvere omnino recusa & adhuc recusat, contra promission. & assumption. suas prædictarum, ad gravem damnum ipsius I I. Unde quod deteriorat est et damnum habet ad valenc. 39 s. inde produc. sectam, &c.

For a Horse sold, and warranted to be sound.

Ebor. ss. W M per R B Attorn. suum quæritur de R K de placito transgr. super casum, eo quod cum prædictus W die et anno, &c. apud Castrum Eborum, &c. E misset prædicto R K unus atrum Spadonem, anglice *one Bl Gelding*, pro 5 l. legalis, &c. ipse idem R K adtunc & ibidem warrantizavit eundem Spadonem esse incolum & sanum, ac nullo morbo vel infirmitate teneri: Et p dictus W M in facto dic. quod prædictus Spado tunc a infect. fuit cum quodam morbo pestilento, anglice *Glaunders*, & diversis aliis morbis & infirmitatibus, quo prædictus Spado parvum valebat, ad damnum ipsius W 39 s. Et inde produc. sectam, &c.

For a Horse lent, promising to deliver him.

Ebor. ss. I R quæritur de I A de placito transgr. super casum, quare cum dictus I A die & anno, &c. apud Castrum In consideracionem quod prædictus I R adtunc & ibi ad instantiam & requisicionem ejusdem I A mutuo dedi & deliberasset eidem I A unum badium Equulum, an *one Bay Nag*, prec. 6 l. redeliberand. eidem I R cum postea requisit. fuisset præfat. I A super se assumpsit, & dem I R adtunc & ibidem fidelit. promisit quod ipse i

I A eundem Equulum eidem I R cum inde postea requisit. fuisset fidelit. redderet & deliberare, ac etiam 12 d. &c. pro quolibet die quo præfat. I A laboret vel equitet eundem Equulum eidem I R cum inde postea requisit. fuisset bene & fidelit. solvere & contentare vellet. Et præfat. I R in facto dic. quod idem I A quadragint. diebus eundem Equulum laboravit & equitavit, videlicet, apud, &c. prædictus tamen I A promissionem et assumptionem suas predictas minime curans, sed callide et subdole intendens eundem I R in præmissis decipere et defraudere, licet die, anno, &c. prælict. ac etiam diversis diebus et temporibus postea, et ante inceptionem hujus secte, apud Castr. &c. ad deliberand. eundem Equulum eidem I R sepius requisit. fuit, sed prædictum Equulum reddere sive deliberare omnino recusavit, et adhuc recusat, necnon 40 s. pro labore et mercede ejusdem Equuli pro 40 diebus prædictis eidem I R non solvit, sed ill. et solvere similiter recusavit, et adhuc recusat, in contrarium promission. et assumption. suarum prædictarum, ad grave damnum ipsius I R &c.

For agisting of Beasts.

T B quæritur de I S Executor. testamenti I P de placito transgr. super casum, quod cum die, anno &c. apud Castrum, &c. in considerationem quod prædictus T B ad special. instanc. et requisitionem I D in vita sua depasceret duos boves ejusdem I D in terr. dicti T B in A in Com. prædicto, a die, anno, &c. ad finem unius mensis prox. sequend. ipse idem I D in vita sua super se assumpsit, et eidem T B adtunc et ibidem fidelit. promisit quod ipse præfat. I D tantum quant. dictus depast. pro averiis prædictis rationabilit. valeret eidem T B cum idem I D inde requisit. fuisset, bene et fidelit. solvere et contentare vellet. Et præfat. T B in facto dic. quod ipse a prædicto die, &c. ad finem unius mensis tunc prox. sequend. depavit dictos duos boves ipsius I D in terr. ejusdem T B in A præd. Et quod iidem depast. rationabilit. valebat 12 s. &c. prædictus tamen I D in vita sua, et prædict. I S post mortem ipsius I D promission. et assumption. ejusdem I D minime curans, sed machinans et fraudulent. intren-

dens eundem T B in hac parte callide & ſubdole decipere, & defraudare, predictos xii s. vel aliquem inde denar. eidem T B nondum ſolvit, nec pro eiſdem aliqualit. contentavit, ſed ill. ſolvere predictus I D in vita ſua, & prefat. I S poſt mortem ipſius I D recuſavit, & adhuc recuſat, quamvis predictus I D in vita ſua poſtea, ſcilicet, die, anno, &c. apud Caſtrum, &c. inde requiſit. fuit: Unde idem T B dic. quod deteriorat. eſt & damn. habet ad valenc. 30 s. Et inde produc. ſectam, *&c.*

For curing a wound.

Ebor. ſs. AS queritur de W H &c. quod cum dictus W H die, anno, &c. apud Caſtrum, &c. adtunc & ibidem gravit. vulnerat. in Gurture & in tergo ſuis cum conſoſſione cultelli, ipſe idem W H in conſideratione quod prefat. A S ad ſpecialem inſtanc. & requiſition. ipſius W H ſecundum optima artem & peritiam ſua Chirurgi. operam daret vulnera predicta ejuſdem W H ſanare, ac ſtudium & laborem inde impenderet ſuper ſe aſſumpſit, & eidem A S adtunc & ibidem fidelit. promiſit quod ipſe idem W H tantas denar. ſummas quantas predict. A pro opere & labore ſuis & pro medicamentis ad ſanand. vulnera predicta ejuſdem W H impenſa rationabilit. habere mereretur, eidem A S cum inde requiſit. fuiſſet, bene & fidelit. ſolvere & contentare vellet. Et predictus A S in facto dic. quod ſtudium, labor & opere ad ſanand. vulnera ipſius W H & expenſis ſui inde rationabilit. valebant 30 s. &c. predictus tamen W H promiſſionem & aſſumptionem ſuas predictas minime curans, ſed machinans & fraudulent. intendens eundem A S in hac parte callide & ſubdole decipere & defraudare, &c.

For a Labourers Hire.

Ebor. ſſ. MK queritur de G N *&c.* quod cum predictus G N die, anno, &c. in conſideratione quod predictus M K adtunc

adtunc et ibidem ad requiſitionem ejuſdem G N defalcaret quedam jampna vocat. *Whins* ejuſdem G N tunc creſcend. et exiſtend. in quodam Clauſis voc. le O, jacend. infra precinct. ville de H in Com. predicto, et faciat eadem jampna in faſces jampnoſ. anglice *Whin kids*, ſive faſciculos; ſuper ſe aſſumpſit, ac eidem M R adtunc et ibidem fidelit. promiſit, quod ipſe idem G N quant. placeret ſive contenraret eidem M R pro opere et labore ſuis in defalcand. et faciend. dictos jampna in faſciculos in Clauſo predicto ramdiu prefat. M R adeo operaret et laboraret pro predicto G N cum inde poſtea requiſit. fuiſſet, bene et fidelit. ſolvere et contentare vellet; Et predictus M R in facto dicit, quod ipſe congruenter defalcavit jampna predicta, et illa fecit in faſciculos pro predicto G N in Clauſo predicto per ſpacium unius diei integri tunc prox. ſequend. & quod optime meruit 12 d. pro ſtupendio pro opere et labore ſuis illius diei, et quod 12 d. eſt rationabilis ſuum ei placere et contentare pro dict. opere et labore diei iſtius in defalcand. et faciend. jampna predicta in faſciculos, ut prefertur: predictus tamen G N promiſſionem et aſſumptionem ſuas predictas minime curans, ſed callide et ſubdole intendens eundem M R in premiſſis decipere et defraudare, licet, &c.

In conſideration that the Plaintiff would deliver unto one E L *certain Mercery-Wares, if he did not pay for them, the Defendant would.*

P B Ar. virtute brevis, &c. quaritur de H S de placito, &c. quod cum die, anno, &c. apud Caſtrum, &c. In conſideratione quod prædictus P B (tunc & adhuc exiſtend. Meraxar. anglice *a Mercer* de Civitat. Eborum) deliberaret E L pro uſu ejuſdem E L tales parcellas Mercimoniorum, anglice *Mercery wares*, quales ipſe idem E L accipiat & recipiat de prædicto P B ipſe idem H S ſuper ſe aſſumpſit, & eidem P B adtunc & ibidem fidelit. promiſit, quod ſi prædictus E L non ſolveret & ſatisfaceret dicto P B prædictis Mercimoniis ad talia ratas & preciq *Ebor. ſs.*

qualia iidem E L et præfat. P B consentiant quod ipse idem H S bene et fidelit. solvere et satisfacere vellet eidem P B omnes tales denar. summas quales iidem E L et P B consentiant pro ratis et preciis dictorum mercimoniorum infra dict. diem, annum, *&c.* et primum diem *Maii*, tunc prox. sequend. Et prædictus P B in facto dic. quod postea, scilicet, die, anno, *&c.* apud Castrum, *&c.* prædict. præfat. E L accepit et recepit de prædicto P B mercimonia inferius mentionata, videlicet, septem virgat. atri panni lanei vocat. *Flanders-Serge* pro 38 s. et quinq; virgat. cujusdam pann. lanei vocat. *Italeano* pro 26 s legales, *&c.* quæ quidem rate et precia adtunc et ibidem concordant fuer. inter dict. E L et præfat. P B et attingebant in toto ad sum. 3 l. 4 s. *&c.* quamquidem sum, *&c.* vel aliquend. inde denar. præfat. E L nondum solvit vel satisfecit eidem P B prædictus tamen H S promissionem et assumptionem suas predictas minime curans, sed machinans, *&c.*

Slander for calling the Plaintiff Thief, &c.

Ebor ss. F F quæritur de *G S* de placito, *&c.* eo quod cum prædictus *E R* bonus, verus, fidelis et honest. subdit. et ligeus Dom. Regis nunc sit, et tanquam bonus versus et fidelis ligeus dict. Dom. Regis, et progenitorum suorum nuper Regnum et Regnarum *Angliæ*, a tempore Nativitatis sue hucusq; se gessit, habuerit et gubernavit. bonorum nominis, fame, conditionis, conversationis et reputationis tam apud venerabiles personas quam aliis fideles subdit. dict. Dom. Regis progenitorum suorum quibus idem *E R* not. fuerat ac cum quibus idem *E R* quoquomodo consortium habuerat, per totum tempus prædict. habit. nor. dictus et reputat fuerat, absq; aliqua macula, furti, felonie, latrocinii, aut alicujus alius falsi et seu criminis nocivi, sine suspitione inde hucusq; illesus et intact. semper vixit. et remansit. prædictus tamen *G S* præmissorum non ignarus, sed machinans et malitiose intendens eundem *E R* non solum in bonis nomine, fama, opinione, credentia, estimatione et reputatione suis, ledere, detrahere, pejorare, et penitus destruere, verum etiam eundem *E R* in perturbationem, vexation. et infamiam, et bonorum et catallorum suorum

fo-

forisfactur. inducere die, anno, loco, &c. in Com. prædicto, hæc falsa, malitiosa, et scandolosa verba eidem E R, et de eodem E R in presenr. & audit. quamplurimorum fidelium subditor. dict. Dom. Regis nunc, palam et publice, falso et malitiose dixit, retulit, propalavit et publicavit in his verbis sequend. *Thou* (prædict. E R innuend.) *art a Thief, and I* (prædict G S innuend.) *will prove thee* (eundem E R innuend.) *a Thief, and a Horse-stealing Thief from thy Cradle.* Quorum quidem falsorum et scandalosorum Anglicanorum verborum, dictionis et propalationis prætextu idem E R non solum in bonis nomine, fama, credent. estimation. et reputation. suis prædictis multipliciter lesus et deteriorat. existit, verum etiam in magnam infamiam et publicum opprobrium illapsus est, ita quod diversis person. honest. et fidel. subdit. dict. Dom. Regis nunc, quibus ante illud tempus consortium habere cum eod. E R usitat. fuer. et ipsum multopere estimarunt seipsos, a consortio et societate ejusdem E R retrahunt et intromittere commercium sive rem habere cum eodem E R penitus recusant, ad grave damnum ipsius E R 39 s. Et inde produc. sectam, &c.

For slanderously calling the Plaintiff Bankrupt.

E B quæritur de E M de placito transgr. super Casum, quod cum prædictus E B bonus, verus, fidelis et honest. subdit. et ligeus Dom. Regis nunc et al. Regn. Angl. et tanquam bonus, honest. et fidel. subdit. dict. Dom. Regis nunc et a tempore Nativitatis sue hucusq; fuit et adhuc existit, sine ulla macula sive suspitione doli, corruption. decoctorem agendi, sive fraudis, vel eorum aliquorum gessit. vixit. et gubernavit. et bonorum nominis, fame, credent. et estimationis fiducie, et conversationis magnarumq; copiarum semper adhuc reputat. fuit et habit. et honeste, juste et fideliter omnibus intromissionibus et negotiis cum quibuscunq; habit. et tract. per totum tempus prædictam vixit, et se gessit. Et cum prædictus E B die, anno, &c. & per spatium decem annorum ult. præterit. et continuo postea hucusq; artem, mysterium sive facultatem Pharmacopole, anglice *an Apothecary*, ejusdem Civit. Eborum exercuit *Ebor. ss.*

& usitat. victum suum & sustentium ipsius & familie l
exercendo et tractando artem mysterium sive facultat
prædicta per totum tempus prædictum, bene, copiose
sufficienter acquisivit & lucrat. fuit, ac etiam diversis i
gent. denar. sum. licite emend. & vendend. Mercatur
faciend. & barganizand. super credentiam suam divisor
Mercimoniorum & aliorum rerum arti, mysterio sive fac
tati ipsius E B pertinend. ad meliorem sustentione ips
& familie sue, & ad magnum incrementum divitiarum su
rum, juste & honeste, per totum tempus prædict. impe
vit, ac omnes & singl. denar. summas pro rebus vel mer
moniis quibuscunq; per ipsum de aliquibus personis p
totum tempus predict. super credentiam empt. vel r
cept. vel ullo modo debit. ipse idem E B alicui person
eidem E B sic fidem adhibend. juxta stipulationem & a
greament. inter eis concordat & fact. absq; fraude vel di
tione persolvisset; quibus præmissis, ac etiam ratione ho
nest. conversationis erga omnes person. ipse idem E B su
um credent. & bonam opinionem inter omnes vicinos suo
ac al. honorabiles person. hujus Regni Angl. quibus no
fuit merito habuit, & sibi lucrat. fuit: prædictus tamen E M
præmissorum non ignarus, sed sortem & conditionem pre
dict. ipsius E M malitiose invidens, & machinans, imag
nans & fraudulent. intendens dict. stat. nomen, famam, cre
dentiam, fiduciam & estimationem ejusdem E B ledere &
deprivare, & ad faciend. eundem E B in penur. infami
am & indigentiam incidere, & pro viro prave conversatio
nis estimaris, ac etiam pro decoctore & viro nullius fidei
inter omnes fidel. subdit. dict. Dom. Regis, ita quod illi
omnes a consortio ipsius E B tanquam decoctoris vel vi
ri nulla credenc. digni seipsos omnino subtraherent. Et
quod omnino cessarent & abstinerent cum eodem E B bar
ganizare, emere vel intromittere, postea, scilicet, die, an
no, &c. præd. apud Castr. Eborum præd. hæc falsa scan
dalosa & opprobriosa Anglicana verba sequend. de eo
dem E B in præsentia et audit. diversorum dict. Dom.
Regis nunc fidel. subdit. & credent. dignorum, falso, ma
liciose & scandalose dixit, retulit, & alta voce propala
vit, videlicet, E B dictum (E B quer. innuend.) *is a
Rogue, and a Bankrupt, and I* (seipsum E N modo de
fend.) *will prove him one:* quorum quidem falsorum, scan
dalosum, et opprobriosorum verborum, dictionis, propala
tionis

tionis et publicationis prætextu idem E B non ſolum in bonis, nomine, fama, credent. fiduc. et eſtimatione ſuis prædictis multipliciter leſus et ſcandalizat exiſtit, verum etiam de maxima parte proficuor. artis ſuæ prædictæ deprivat. exiſtit, et penitus ſpoliat eo quod dicti vicini ſui et al. fidel. ſubdit. dict. Dom Regis. de præfat. E B ad emere, mercaturum agere, barganizare, vel aliqualiter tractare vel intromittere, omnino diffidunt & recuſant, et eundem E B pro conſumptore, profligatore et derentatore aliar. rerum et denar. reputant, et ipſum talem eſſe cenſeunt, per quod præd. E B non ſolum in exercitio et manutentione artis, myſterii, vel facultatis ſuorum graviter impedit. et ſtatus et copia ſui magnopere enervat. et conſump. ſed etiam diverſis ingent. denar. ſum. in et circa defenſionem ipſius de præmiſſis præd. ſuper ipſum import. pro recuperatione bonorum nominis, fame, credent. fiduc. et eſtimationis ſuorum prædictorum, diſponere et errogare, coactus et compulſus fuit. Unde præfat. E B dic. quod deteriorat. eſt, et damnum habet ad valenc. 200 l. Et inde produc. ſectam, &c.

In conſideration that the Plaintiff would marry E R, *the Defendant promiſed to make him worth* 200 *l.*

W R &c. quæritur de P W de placito, &c. eo quod cum die, anno, &c. apud Caſtrum, &c. quoddam Colloquium habitum et mot. fuit int. prædictum W P et eundem P W de et concernend. Maritag. inter præfat. W P et quendam E R fil. cujuſdam S R de &c. Com. &c. dictuſq; P W in conſideratione quod præfat. W P ad ſpecialem inſtanc. et requiſitionem ipſius P W juxta leges et ritus Eccleſiaſticos hujus Regni Angl. ex aſſenſu dict. S R in uxorem duceret prædictam E R ſuper ſe aſſumpſit, et eidem W P adhunc et ibidem fidelit. promiſit quod ipſe idem P W faceret eundem W P valere 200 l. &c. et amplius, immediate poſt maritag. inter prædictum W P et eandem E R habitu et ſolemnizat. Et predictus W P in facto dic. quod ipſe ſub ſpe fidel. *Ebor. ff.* 14 *E.4.f.6* 15 *E.4.f.32* 17 *E.4.f.5*

fidel. performationis et aſſumptionis prædictorum ej
dem P W & al. ſpecial. inſtanc. & requiſition. dict. p
poſtea, ſcilicet, die, anno, &c. apud, &c. præd. præfat. W
juxta leges & ritus Eccleſiaſticos hujus Regni Angl. ex
ſenſu dicti *S R* in uxorem duxit prædictam *E R* præ
dictus tamen *P W* promiſſionem & aſſumptionem ſuas pr
dictas minime curans, ſed machinans & fraudent. intende
eundem *W P* in hac parte callide et ſubdole decipere
defraudare prædict. *W P* non fecit valere 200 l. &c. & a
plius licet poſtea, ſcilicet, die, anno, &c. apud, &c. prædic
per eundem *W P* inde requiſit. fuit ſed ad hoc facien
hucuſq; recuſavit, & adhuc recuſat, ad damnum, &c.

For ſtopping up anothers light, for depriving hi of Ayr, and the paſſage of Rain.

T P &c. quæritur de A B &c. de placito tranſgr. ſupr
Caſum, quare cum prædictus T P per ſpacium ſeptet
annorum nunc ult. præterit. fuit et adhuc exiſtit ſeiſit
de un. antiquo Meſſuag. cum pertin. in S prædicta in Do
minico ſuo ut de feodo, in quo Meſſuag. præfat. T P & i
milia ſua per totum tempus prædict. inhabitaver. & a
huc inhabitant. Ac etiam cum prædictus A B per ſpaci
um trium annorum ult. elapſ. fuit & adhuc exiſtit poſſeſſ
onat. de un. al. Meſſuag cum pertin. in S prædicta adjacend
et contigue eidem Meſſuag ipſius T P ex parte occiden
tal. ejuſdem Meſſuag. ipſius T P Ac etiam cum in dict
parte occidental ejuſdem Meſſuag. præfat. T P a tempo
re cujus contrarii memoria hom. non exiſtit fuer. & ad
huc exiſtunt due antique Feneſtre parcell. ejuſdem Me
ſſuag. ipſius T P per quas Feneſtras non ſolum lumen
fitat. fuit ſulgere in dict. Meſſuagium ad illud illuminand
ſed etiam ſalubris aer ufitat. fuit ingredi in dict. Meſſuag
pro ſalubritate ipſius T P & Familie ſue in eodem reſi
dend. Et prædictus T P de Meſſuag. ſuo prædicto ſicu
præfertur ſeiſit. Et dictus A B de dicto Meſſuag. ſuo cum
pertinen poſſeſſionat. idem A B præmiſſorum non igna
rus, ſed malitioſe intendens, Feneſtras prædictas obſtruere
& eundem T P de lumine & aere ſalubri prædictas Fe
neſtras in Meſſuag. prædictam ipſius T P ſulgend. & in
gredi

reliend. deprivare, tali die & anno, apud S prædict. con-
ſtruxit & erexit, & a tempore illo hucuſq; continuavit
quendam dom. ſuper pec. terr. voc. le *back ſide*, parcell.
dict. Meſſ ag ipſius A B adeo prope eidem Meſſuag. ipſi-
us T P & duobus Feneſtris prædictis, quod non ſolum due
Feneſtre prædicte obſtruct. fuer. & per illud præfat. T P
& familia ſua deprivat. de lumine & aere ſalubri quæ uſi-
tat. fuer. per dictas Feneſtras in Meſſuag. prædicto ipſius
T P fulgere & ingredi, ſed etiam aquæ pluviales a Meſſuag.
prædicto ipſius T P caden. impedit. & pluvia in tran-
ſeund. adeo impedit. ad & ſubter fundament. ejuſdem Meſ-
ſuag. ipſius T P Unde Fundament. ejuſdem Meſſuag. la-
befact. & Meſſuag. probabiliter ruitur. ad grave damn. ip-
ſius T P 20 l. Et inde produc. ſectam, &c.

For teaching the Defendants Child the Latin Tongue, &c.

PG per I R Attorn. ſuum quæritur de I A de placito *Ebor. ſſ.*
tranſgr. ſuper Caſ. &c. eo quod cum prædictus I A pri-
mo die *Auguſt.* anno, &c. apud, &c. in Com. &c. in conſi-
deratione quod prædictus P G pro et durant. tempore
12 menſium et viginț. dierum tunc ult. præterit. docuiſſet
et inſtituiſſet I A fil. natural. ejuſdem I A in rudimentis
et doctrina Lingue Latine, et a predicto primo die *Auguſti*,
anno præd. apud H præd. docuiſſet et inſtituiſſet præfat.
I S fil. tamdiu placeret ambobus partibus, in doctrina
Lingue Latine prædict. ſuper ſe aſſumpſit, et eidem P G
adtunc & ibidem fidelit. promiſit, quod ipſe idem I A Pater
tantas denariorum ſummas quantas prædictus P pro in-
ſtructione et doctrina ejuſdem I A fil. per totum tempus
prædict. rationabilit. meruiſſet eidem P cum ipſe idem
I *A* pater inde requiſit. fuiſſet, bene et fidelit. ſolvere et
contentare vellet. Et prædictus P G in facto dic. quod
ipſe promiſſioni et aſſumptioni prædictis præfat. I A pa-
tris fidem adhibens, inſtituit et docuit eundem I *A* fil. in
doctrina prædicta, a prædicto primo die *Aug.* uſq; ad ult.
diem *Julii*, anno &c. Et quod ipſe idem P pro inſtructi-
one et doctrina prædict. ejuſdem I *A* fil. durand. toto
tempore prædict. exiſtend. duodecima menſis et viginț.

dies

dies rationabilit. meruit viginț. ſolidis legalis monete gl. prædictus tamen I A pater promiſſionem et aſſ tionem ſuus prædictus minime curans, ſed machinans fraudulent. intendens eundem P G *&c.*

For Dyet, and time given for payment of the de

N D per, *&c.* quæritur de I D de placito tranſgr. ſu Caſum, Eo quod cum quinto die, *&c.* apud, *&c.* p dictus I D indebitat. fuit eidem N D in octodecim ſoli *&c.* pro cibo et potu quibus præfat. N D ipſum ſupple et ſic indebitat. exiſtend. in conſideratione quod præd N D adtunc et ibidem apud Caſtr. Ebor. in Com. Ebor. infra libertat. et juriſdictionem hujus Cur. ad ſpecial. ſtanc. et requiſitionem ejuſdem I D tempus daret pro lutione eorundam 18 s. uſq; ad prox. diem ſequend. idem I S ſuper ſe aſſumpſit, et eidem N D adtunc et ibid fidelit. prox. diem bene et fidelit. ſolvere et conten vellet. Et licet prædict. N D uſq; ad prox. diem ſeque et hucuſq; pepercit ſolutionem eor. 18 s. prædictus ram I D promiſſionem et aſſumptionem ſuus prædictus min curans, ſed machinans et fraudulent. intendens eund N D *&c.*

Upon an Aſſumpſit to ſave one harmleſs upon bligation.

Ebor. ſſ. A B virtute brevis de Juſtic. *&c.* quæritur de C D placito tranſgr. ſuper Caſ. *&c.* Eo quod cum præ ctus A B (die et anno) apud Caſtr. Ebor. in Com. præ cto, et infra Juriſdictionem hujus Cur. ad ſpecial. inſtan et requiſitionem prædicti C D per ſcriptum ſuum ob gator. gerend. dat. eiſdem die et anno, obligat. fuit una cu prædicto C D et pro debito ipſius C D propriis cuid E F ſuper conditionem inde indorſ. quod ſi prædictus D eidem E F ac certum diem in eadem conditione conte 10 l. legalis, *&c.* ſolveret, quod tunc ſcriptum illud vac um foret et effect. nullius, aliter ſtaret et remaneret in

re & virtute ſuis: prædictus C D poſtea, ſcilicet, tali die, no & loco, &c. in conſideratione prædicta ſuper ſe aſpſit, & eidem A B adtunc & ibidem fidelit. promiſit d prædictus C D omnibus temporibus tunc poſtea exret præd. A B verſus prædict. E F a prædicto ſcripto bligatorio; prædictus tamen C D promiſſion. & aſſumpti-n. minime curans, nondum exoneravit præd. A B a prædicto ſcripto obligator. licet ad hoc faciend. ſepius requiper eundem A B Unde idem A B dic. deteriorat. eſt & amn. &c.

For keeping a Dog accuſtomed to bite Sheep.

A B virtute, &c. quæritur de C D, &c. quod cum prædictus C D apud M ſervabat & retinebat quendam canem ad mordend. oves conſuet. ſcient. canem illud ad mordend. oves eſſe conſuet. quiquidem canis vigint. vervece, anglice *Weather-ſheep*, vigint. & matrices, anglice *Ewes*, & vigint. agnellas ipſius A B ad valorem x l. apud, &c. prædict. invent. xii die *Maii*, anno Regni Dom. nunc Regis *Caroli* Secundi xiiii, tam graviter mordebat, quod ii oves & agnell. prædict. per morſum ejuſdem canis adtunc & iidem interierunt: Unde idem A B dic. quod deteriorat. eſt & damnum habet ad valenc. xx l. Et inde produc. ſectam, &c. *Ebor. ff.*

Another.

A B virtute brevis, &c. quæritur de C D de placito, &c. quod cum prædictus C D 8 die *Junii*, anno, &c. apud, &c. quendam canem ad mordend. oves aſſuet. retinebat, ſciens canem, &c. (ut ſupra) quiquidem canis die & anno, apud, &c. prædict. oves, ſcilicet, ſexdecim verveces, & trigint. oves matrices, & octo agnell. ipſius A B fugavit & momordit, ita quod per fugation. & morſum illa ſex de prædict. vervicibus xii de prædictis Oviculis, & quatuor de prædictis agnellis ad valor. x l. interierunt, & reſid. ſcilicet, octodecim Oviculorum gravedarum agnell. ſuas projecer. abort. Et reſid. dictorum Vervicum multo deteriorat. fuerunt; Et alias enormia, &c.

Againſt

Against an Inn-keeper for a Horse lost.

A B virtute brevis, &c. quæritur de C D Hospitator placito transgr. super Casum, quod cum secundum et consuetudines hujus Regni Angl. Hospitatores qui munia Hospitia tenent & servant ad Hospitandum res per eas partes ubi hujusmodi Hospitia existunt & Hospitat. preservare tenentur nocteq; dieq; bona sua Hospitia illa, absq; aliqua diminutione vel damno, in per defalt. hujusmodi Hospitatorum vel servient. ei nullum damnum ullo modo contigerit vel acciderit H tibus suis. Et cum præd. C D ante x diem *Marcii*, &c. ac eodem x die, &c. commune Hospitium *Sign of the White-Hart in Skipton in Craven* Com prædict. et infra libertat. et jurisdiction. hujus tenuit et servavit, et ipsum eundem *A* B in eodem tanquam Hospitem suum adtunc et ibidem accepit. fat. A B adtunc & ibidem in Hospitium prædictum Spadonem albi coloris, precii x librarum importavit, quidem Spadonem præd. C D in custodia sua adtunc dem recepit & habuit; quidam tamen Malefactores *A* B incognit. postea, scilicet, prædicto x die *Marcii*, no prædicto E F Spadonem prædictum sub Custod. C D in Hospitio prædict. existend. adtunc et dem invent. pro defectu bone conservationis prædicti et servientum suorum, ceperunt et abduxerunt, contra gem et consuetud. prædictas: Unde idem *A* B dic. est et damnum habet, &c.

Upon a Horse-Race.

Ebor. ss. G G per *I R* Attorn. suum quæritur versus D M de cito transgr. super Cas. &c. Eo quod cum (tali die anno) apud, &c. quoddam colloquium habitum fuit ter præd. G G et D M concernend. Cursum Equest currend. per Spadonem ipsius G G et Spadonem jusdem D M a B prædicta ad quandam domum

Dexes in Com. prædicto: ſuper quod Colloquium ſic habit. in conſideracionem quod prædict. G G ad ſpecial. inſtanc. et requiſitionem ejuſdem D M adtunc et ibidem ſolvit et depoſuit in man. cujuſdam *Margarete* ux cujuſdem I W duos ſolid. et ſex denar. legalis, &c. ac etiam in conſiderationem quod prædictus G G adtunc et ibidem ſe obligavit dare et deliberare eidem D M prædict. Spadonem ipſius G G ſi Spado ille non ſupercurreret dict. badium Spadonem ejuſdem D M a B præd. ad dictam domum voc. *Dexes*. Et quod ſi prædictus G G ibidem non relinqueret ſpiram ejus, anglice *his Hatband*, antequam dictus Spado veniret ad dictam domum voc. *Dexes* præfat. D M dict. 20 die *Maii*, anno prædicto, apud B prædictam, & infra juriſdictionem hujus Cur. ſuper ſe aſſumpſit, et eidem G G adtunc et ibidem fidelit. promiſit, quod ſi prædictus Spado ejuſdem G G ſupercurreret dict. Spadonem ipſius D M a B prædicta ad dictam domum voc. *Dexes*; Et quod præfat. G G Spiram ſuam ibidem relinqueret antequam dictus Spado ipſius D M ad dictam domum veniret, quod tunc præfat. D M prædict. Spadonem ejus eidem G G ad uſum ipſius G G daret et deliberaret, cum idem D M inde poſtea requiſit. fuiſſet. Et prædictus G G in facto dic. quod prædictus Spado ipſius G G adtunc et ibidem ſupercurrebat dict. Spadonem ejuſdem D M a B prædicta ad dictam domum voc. *Dexes*; Et quod ipſe idem G G relinquebat ſpiram ſuam ibidem antequam prædictus Spado ipſius D M veniebat ad dictam domum voc. *Dexes*. Ac etiam cum dicto xx die *Maii*, anno prædicto, apud B prædictam, et infra juriſdictionem prædictam, in conſiderationem quod predictus G G ad ſpecial. inſtanc. et requiſitionem ipſius D M adtunc et ibidem ſolvit et depoſuit in man. dict. *Margarete* ux. dict. I W duos ſolid. et ſex denar. legalis, *&c.* Ac etiam in conſiderationem quod predictus G G adtunc et ibidem ſeipſum obligavit ſolvere præfat. D M xx s. conſimilis legalis monete, modo ſi predictus Spado ejuſdem G G non ſupercurreret predict. badium Spadonem ipſius D M a B pred. uſq; ad dictam dom. voc. *Dexes*; Et quod præfat. G G ibidem non relinqueret ſpiram ſuam antequam dictus Spado ipſius D M veniret ad dictum domum predictus D M predicto xx die *Maii*, anno ſuprad. apud B predictam infra juriſdiction. predict. ſuper ſe aſſumpſit, et eidem G G adtunc et ibidem fidelit. promiſit quod ſi

pre-

prædictus Spado ejusdem G G supercurreret et prædict. Spa
donem ipsius D M a B prædicta ad domum prædictam vo
Dexes; Et quod prædictus G G spiram suam ibidem reli
querat antequam prædictus Spado ipsius D M ad domu
prædictam veniret, quod tunc præfat. D M xx s. &c. eide
G G cum ipse idem D M inde postea requisit fuisset, be
& fidelit. solvere & contentare veller. Et prædictus G
ut prius in facto dic. quod ejus Spado prædict. adtunc
ibidem supercurrebat Spadonem prædictum ipsius D M
B p. ædicta usq; ad domum prædictam voc. *Dexes*; Et i
se idem G G spiram suam ibidem relinquebat antequa
dictus Spado ipsius D M ad dom. præd. voc. *Dexes* veni
bat: prædictus tamen D M promission. & assumptio
suas prædictas minime curans, sed machinans & fraud
lent. intendens eundem G I in hac parte callide & subdo
decipere & defraudare, prædict. Spadonem ejusdem D
eidem G G nondum deliberavit, nec prædict. xx s. eide
G G nondum solvit, seu aliqualit. pro eisdem contenta
licet præd. D M postea, scilicet, xxi die *Maii*, anno, &
apud B prædicta, & infra Jurisdiction. prædictam, inde
quisit. fuit: Unde prædictus G G dic. quod deteriorat.
& damn. habet ad valenc. &c. Et inde produc. sectam, &c.

Another upon a Horse-Race.

Ebor. ss. IH virtute brevis, *&c.* queritur de B D de placito, &
Eo quod cum xx die *Maii*, anno, &c. apud Castrum, &
quoddam Colloquium mot. et habit. fuisset inter præd I
et præfat. B D de et concernend. cursum equestrem curren
per cesiam equam ipsius I H et badium Spadonem ejus
dem B D ter circa cursum sicut sudibus posit. fuit, voc.
Town-Race, existend. super Moram de A prædicta: supe
quod Colloquium adtunc et ibidem, concordatum fuit int
prædictam I H et eundem B D quod præfat. I H equi
ret cursum prædict. super eundem cesiam equam; Et quo
prædictus B D equitaret cursum prædict. super præd. b
dium Spadonem; Et quod prædicti B D et I H compo
derentur, et qui eorum minus foret ponderosus, onere
tanto amplori pondere quantum ipsum æqui ponder
cum altero faceret; et super hoc agreament. prædictus I

adtunc & ibidem solvit dicto B D xx s. Et in consideratione inde idem B D adtunc & ibidem super se assumpsit, & eidem I H fidelit. promisit ei solvere xl s. &c. si prædicta cessa eque ipsius I H cursum prædict. lucraret; ac etiam quod præd. B D cursum prædictum curreret tanto pondere quant. ipse curreret de pondere dict. I H Et prædictus I H in facto dic. quod prædicti I H & B D adtunc comporderat. fuer. & quod prædict. B D invent. fuit minus ponderosus dicto I H viz. quatuordec. libr. utriaq; Et inde dictus B D congruenter onerat. fuit ponder. & prædict. B D adtunc & ibidem dictum cursum cucurrit. prædictus tamen B D promission. & assumption. suas prædictas minime curans, sed machinans & fraudulenter intendens eundem I H in hac parte callide & subdole decipere & defraudare, ipse idem B D xx die *Maii*, cursum prædict. non cucurrit super dict. badium Spadonem equo pondere dicto I H juxt. promissionem prædictam; & postquam cursus finit. prædictus B D comporderari dicto I H recusavit, ita quod prædictus B D eundem I H in hoc decedit: Unde dic. quod deteriorat. est & damn. habet ad valenc. 5 l. Et inde produc. sectam, &c.

For keeping a Child, and finding it meat, drink, and apparel.

E B virtute, &c. quæritur de R E placito transgr. super Casum, &c. Eo quod cum (vali die & anno) apud, &c. in consideratione quod prad. E B ad special. instanc. & requisitionem ejusdem R E quendam A B fil. dicti R E super corpus ejusdem E B per ipsum procreat. cibo, potu & amictibus competent. manutenere, & servare, & al. necessariis, ita quod dictus puer in defectu ipsius E B nec unquam postea eidem R E onerosus esset ipse idem R E die & anno præd apud, &c. super se assumpsit, ac eidem E B adtunc & ibidem fidelit. promisit, quod ipse idem R E 7 l. legali monete Angliæ eidem E B cum inde postea requisit. fuisset, bene & fidelit. solvere & contentare vellet; Et præd. E B in facto dic. quod ipsa eadem E B eundem A B a die & anno præd. usq; huc, cibo, potis amictibusq; competend. & al. necessariis manutenerit & servavit, ita quod prad. puer extunc hucusq; præd. R E non oneravit: præd. tamen R E promis. & assump. &c. *Ebor. ss.*

For breach of Articles.

B F per breve, &c. quæritur de T F de placito transg. ſuper Caſum, &c. Eo quod cum primo die *Marcii*, &c. anno, &c. apud, &c. In conſideration. quod prædict. B F ſuper ſe aſſumpſit, et eidem T F 13 l. &c. promiſit quos ipſe poſtea, ante inſtitutionem hujus ſecte, ſolvit eidem T F præfat. T F ſuper ſe aſſumpſit, et eidem B F adtunc et ibidem fidelit. promiſit, quod ipſe præfat. T F quendam W F fil. ejuſdem B F pro Apprentic. ſuo acciperet ſervire præd. T F in arte ſive myſterio Pellionis, prædicto primo die *Marcii*, uſq; ad plenum finem et terminum ſeptem annorum, extunc prox. ſequend. et quo præd. T F poſt finem trium quarter. un. anni prox. poſt prædict. prim. diem *Marcii*, inſtitueret, informaret et edocaret eundem W F in arte emend. et vendend. lan. apud L in Com. Ebor. vel conſimiles al. locos ubi præd. T F adtunc frequentabat vel poſtea frequentaret durand. termino prædicto: Et quod prædictus T F durand. termino prædicto non cauſaret vel cogeret præd. W F ad aliqua ſervile opus faciend. circa eundem myſterium Pellionis: quod præd. T F durand. termino prædicto inveniret præfat. W F cibatum, potum, amictis, linteis et laneis, tibialia, calceos, ac omnia al. neceſſar. pro Apprentic. habend. Et quod præd. lint. lan. tibialia, calcei, ac omnia al. neceſſar. a tempore intempus proviſis erint invent. pro prædicto W F per eundem T F tam bon. quam ipſe idem W F haberet tempore advent. ejus eidem T F Et ſic deret ei ſimil. ad finem prædicti termini ſeptem annorum. Et quod præd. T F ſigillaret et deliberaret eidem W F un. Indentur. ſcript. pro performatione convention. prædictarum, et al. uſual. convention. de Apprentic. in eo gnere: prædictus tamen T F promiſſion. et aſſumptiones ſuam prædictas minime curans, ſed machinans, et fraudulent. intendens eundem B F in hac parte callide et ſubdole decipere et defraudare, prædict. W F Apprentic. ſ um eſſe ad ſerviend. eidem T F in arte ſive myſter. P lionis non accepit durand. termino prædicto, ſed eum A prentic. ſuum eſſe accipere recuſavit ſecund. promiſſion

prædictam, quamvis præd. W F parat. fuit et obtulit ſervire præd. T F in dicto myſterio ſecund. conventionem prædict. neq; prædictus T F unquam poſt prædict. tres quarter. un. ann. inſtituit, informavit vel educavit prædict. W F in myſterio ſive arte emend. et vendend. lanas apud L præd. vel al. locos, prout prædictus T F tunc frequentabat ſecund. promiſſionem prædict. licet ſepius requiſit. neq; prædictus T F figillabat et deliberabat Indentur. ſcript. eidem W F pro performation. convention. prædictarum ac al. uſual. convention. de Apprentic. in eo genere, quamvis ult. die *Septembris*, anno, *&c.* apud Caſtr. Ebor. in Com. Ebor. et infra Juriſdiction. hujus Cur. prædictus B F obtulit eidem T F Indentur. ſcript. ad eundem propoſitum et requiſivit prædict. T F eandem prædicto W F deliberare. Unde predictus W F dic. quod deteriorat. eſt et damnum habet ad valenc. xx l. Et inde produc. ſectam, *&c.*

Upon a promiſe for over-loading a Horſe.

P Per breve, *&c.* queritur de D de placito, *&c.* Eo quod cum pred. D tali die, anno et loco, in conſideration. quod prefat. P ad ſpecial. inſtanc. et requiſitionem ipſius D accommodaret eidem D quandam Equam ipſius P ita quod quidem G D filius ipſius D ſuper eandem equam equitet et itineretur a vill. de L in Com. predicto uſq; ad B in Com. *Lancaſtrie*, ſuper ſe aſſumpſit ac eidem P adtunc et ibidem, ſcilicet, (tali die, anno et loco præd.) fideliter promiſit quod præd. G D equam predictam in itinere predicto nullo modo ſuperoneraret, vel aliqualiter opprimeret, ſed eandem equam cum inde requiſit. fuiſſet eidem P incolumem deliberaret: Et pred. P in facto dic. quod ipſe promiſſion. et aſſumption. prefat. D fidem adhibens, poſtea, ſcilicet, (predict. die, anno et loco) equam predictum prefat. D accommodavit, ita quod predict. G D equitet et itineretur ſuper eandem equam, ut predicitur: predictus tamen G D equum predictam in itinere predicto provocabat, ſuperlaborabat, et talibus oneribus pregravabat, quod equa predicta per ſuperoperationem, equitationem, et ſuperonerationem pred. interiit; Et ſic pred.

D promiſſion. & aſſumption. ſuas predictas non performa
vit, ad damn. ipſius P x l. Et inde produc. ſectam, &c.

Promiſe to ſave harmleſs againſt a Bond.

R R virtute brevis, &c. queritur de C L de placito tran
gr. ſuper Caſum, &c. quare cum præd. C L tali die
anno. &c. apud, &c in conſideratione quod præd. R
adtunc & ibidem ad ſpecial. inſtanc. et requiſitionem ip
us C L teneri et obligar. vellet cuidam G W per quod
ſcriptum ſuum obligator. debit. forma juris faciend
lat. & ut fact. ejus deliberat. in 24 l bone, &c. ſub con
pro ſolutione 12 l. 12 s. conſimilis, &c. eidem G W
per primum diem *Maii*, tunc proxim. ſequend.
in tunc dom. mantional. prædict. G W ſcituat. in, &c.
prædictos R R & C L vel eorum alter. faciend. ſuper
aſſumpſit, et eidem *R* R adtunc et ibidem, videlicet,
die, anno, &c. prædict. apud L præd. ſcilicet, in, &c. p
fideliter promiſit quod præfat. C L prædict. 12 l.
eidem G W ſuper prædict. primum diem *Maii*, in exo
ration. ſcript. obligator. prædicti, ſolvere vellet: et
dict. R R extunc poſtea, de et concernend. ſcript. obli
tor. prædict. indempnem et ſine diſpendio ſervare et
ſtare vellet. Et præd. R R in facto dic. quod ipſe promiſ
et aſſumption. ipſius C L præd. fidem adhibens, poſtea,
licet, eodem ult. die O anno, &c. præd. apud L &c. a
ſtanciam et requiſitionem ejuſdem, una cum præfat. C
pro debito peculiar. et propr. ipſius C L per ſcript. ſu
obligator. debit. forma juris fact. ſigillat. et ut fact. ſu
deliberatum obligat. devenit in prædict. 24 l. ſub con
on. ſolutione prædict. 12 l. 12 s. eidem G W ſuper pr
primum diem *Maii*, modo et forma prædicta facie
prædictus tamen C L promiſſionem, &c. minime cur
ſed machinans, *&c.* defraudare prædict. 12 l. 12 s. eid
G W ſuper prædict. primum diem *Maii*, ſecund. form
et effectum conditionis predict. nondum ſolvit, aut e
dem G W per eiſdem aliqualiter contentavit, nec eun
R R de et concernend. ſcript. obligator. predict. inde
nem et ſine diſpendio ſervavit et preſtitit, licet ad hoc
end. prefat. L poſtea, ſcilicet, (tali die, anno et loco) p

per eundem R R requisit, pro quod et quia predict. 12 l. 12 s. prefat. G W super predict. primum diem *Maii*, secund. formam et effectum conditionis predict. insolut. fuer. predictus G W postea, scilicet, (tali termino et anno) in Cur. &c. coram, &c. implacitavit eundem R R de et super script. obligator. predict. de predict. 24 l. Et placitum illud in tantum profecut. fuit, quod idem R R non solum 15 libras de et super script. obligator. predict. prefat. G W solvere coact. et compulsus fuit, sed etiam diversis denar. suum circa defensionem secte predict. expendere et erogare compulsus fuit: Unde dic. quod deteriorat. est, et damnum habet ad valenc. &c.

Trover.

I B virtute brevis, &c. queritur de I C de placito transgr. super Casum; Eo quod cum predictus I B die, anno, &c. apud Castrum, &c. possess. fuisset de un. cesia Equa, anglice *one Grey Mare*, prec. x l. ut de bonis et catall. suis propriis, et sic inde possessionat. predictus I B die, anno, &c. predict. predictam Equam extra man. et possession. suas casualiter perdidit et amisit; quequidem Equa postea, scilicet, die anno, &c. apud Castr. &c. ad man. et possession. ipsius I C devenit: pred. tamen I C cert. scien. equam predictam fore equam ipsius I B et ad ipsum de jure spectare, et machinans eundem I B de predicta Equa decipere, licet sepius requisit. &c. predictam equam eidem I B non reddidit, sed prefat. I C postea, scilicet, die, anno et loco, &c. eandem equam in usum et commodum suum proprium disposuit, et convertit, ad grave damnum ipsius A B Unde dic. quod deteriorat. est et damnum habet ad valenc. xx l. Et inde produc. sectam.

Detinue.

T V virtute brevis, &c. per E B Attorn. suum queritur de R M de placito quod reddat ei bona et catalla ad valenc. xx l. &c. que ei injuste detinet &c. pro eo cum pred. T V die, anno, &c. apud Castr. Ebor. deliberavit ei idem R M un. Vacc. nigri coloris, ad valenc. 6 s. un. cesum Equulum, anglice

anglice *a Grey-Nagg*, ad valenc. x l. et xiiii virgat. gal. viridi. panni lat. anglice *French green Broad-cloth*, ad valenc. C s. ſalve cuſtodiend. et eidem T V cum ipſe idem M inde requiſit. fuiſſet deliberand. predictus tamen licet ſepius inde requiſit. bona et catalla predicta eidem V nondum redeliberavit, ſed illa ei hucuſq; redeliberare contradixit, et adhuc contradicit et injuſte detinet. Unde pred. T V dic. quod deteriorat. eſt et damn. habet ad valenc. x l. Et inde produc. ſectam, *&c.*

For breaking the Plaintiffs Stall in the Market.

A O queritur de W C de placito tranſgr. Eo quod prædictus W C die, anno, *&c.* apud S in Com. predict. & infra Juriſdictionem hujus Cur. ſuper ipſum eundem A O intuit. fec. repoſitorium, anglice *a Stall*, ibidem in Mercato edificat. fregit et intravit, et mercimonia ſua, videlicet, aluram, anglice *Dreſſ Leather*, ad valenc. C s. per repoſitorium ſuo prædicto improbit. diſpoſuit, proſternavit & ſpoliavit, & al. enormia ei intulit, ad grave damnum ipſius A O. Unde dic. quod deteriorat. eſt & damnum habet ad valenc. x l. Et inde produc. ſectam, &c.

For breaking the Plaintiffs Cloſe, &c.

I A queritur de T S de placito tranſgr. &c. Eo quod cum pred. T S die, anno, *&c.* quendam clauſum ipſius I A voc. C apud S in Com. &c. fregit & intravit, & herbam ipſius I A adtunc & ibidem exiſtend. valor. x s. cum quibuſdam averiis, videlicet, Vaccis, bobus, juvenc. equis, porcis & hidentibus depaſt. fuit, conculcavit, conſumpſit & ſpoliavit, tranſgreſſionem prædictam a prædicto die, anno, &c. pred. durand. termin. unius menſis integr. tunc proxim. ſequend. diverſis diebus & vicibus continuand. ac alia enormia ei intulit, ad grave damnum ipſius I A Unde dic. quod deteriorat. eſt & damnum habet ad valenc. xxxix s. Et inde produc. ſectam, &c.

For a Dog biting of a Mare, ſo that ſhe died.

HS queritur de W P de placito tranſgr. Eo quod cum prædictus W P die, anno, &c. apud, &c. unam Equam ipſius H S prec. x l. adtunc & ibidem invent. verberavit, vulneravit, & fugavit, ac etiam cum quodam cane momordit, ita quod ratione verberationis, fugationis, vulnerationis, & morſus ejuſdem Eque, adtunc & ibidem prædicta Equa interiit: Et al. enormia ei intulit, ad grave damnum, &c.

For chaſing of Hogs with Dogs, &c.

AB queritur C D de placito tranſgr. quare duos porcos ipſius A B apud M invent. quibuſdam canibus fugavit, ita quod ratione inde prædicti porci prec. xl s. interierunt: & al. enormia, &c.

For paſturing Sheep in a rotten paſture, by reaſon whereof they died.

AB queritur de C D de placito tranſgr. quare clauſum ipſius A B apud L fregit, et 260 oves ipſius A B prec. xl l. ibidem nuper invent. cepit & effugavit, & eos in quendam inſalubri paſtur. infra vill. prædict. & ex malicia ſua eoſdem oves tamdiu detinen. ſuper paſtur. prad. quod illi oves inſalubritate illius paſtur. putrid. & inſalubre exiſtend. interierunt: & al. enormia, &c.

For digging and ploughing the Plaintiffs ground, and taking away his Corn.

TS queritur de G G de placito tranſgr. quare prædictus G G die, anno, &c. clauſum ipſius T S exiſten. un. acr.

terre arabil. jacend. in B fregit et intravit, et solum ejusdem Clausis aratro suo effodit et proscidit; et postea, scilicet, die et anno, &c predict. apud B predict. et infra jurisdictionem predict. quare predict. G G clausum predictum ipsius T S fregit et intravit, et Garbas suas, scilicet duas carectatas avenarum ipsius T S ibidem nuper defalcat ad valenc. xxx s. cepit et asportavit; Et al. enormia intulit, &c.

For taking away a Post.

A B queritur de C D de placito transgr. &c. quare clausum ipsius A B apud F fregit et quendam novum postem ipsius A B ibidem in sol posit. et affixum, ad valenc. xxx s. cepit et asportavit, et alia enormia, &c.

For eating the Grass, cutting the Hedges, and assaulting the Plaintiff.

A B &c. queritur de C D de placito transgr. &c. quare cum predictus C D x die *Maii*, anno, &c. apud Castrum, &c. in Com. predicto, et infra libertatem et jurisdictionem hujus Cur. Clausum ipsius A B apud S fregit et intravit, et herbam suam ad valenc. xxx s. ibidem nuper crescend. cum quibusdam averiis depast. fuit, conculcavit et consumpsit, et al. herbam suam ad valenc. 6 s. ibidem nuper crescend. pedibus ambuland. conculcavit et consumpsit; ac etiam in ipsum A B adtunc et ibidem insult. fec. et ipsum verberavit, vulneravit et male tractavit, ita quod de vita ejus desperabatur; necnon sepes suas ibidem prostravit; Et al. enormia, &c. ad grave damnum ipsius A B xxxix s. xi d. Et inde producit sectam, &c.

Treſpaſs and Aſſault.

IH queritur de I S de placito tranſgr. & inſult, &c. Eo quare prædictus I S die, anno, &c. apud Caſtrum Eborum inſult. & affraiam fecit in ipſum eundem I H & ipſum adtunc & ibidem verberavit, vulneravit, & male tractavit, ita quod de vita ejus deſperabatur; Et al. enormia ei intulit, ad grave damnum ipſius I H &c. Unde dic. deteriorat. eſt, &c. xxx s. Et inde produc. ſectam.

Aſſault upon one at Under-age.

WE qui per A S proxim. amicum ſuam, ex gratia hujus Cur. admiſſus eſt ad proſequend. pro prædicto W E quia infra etatem xxi annorum, exiſtit, virtute brevis de Juſtic. queritur verſus T C de placito tranſgr. & inſult. &c. Eo quod prædictus T C die, anno, &c. in & ſuper pred. W E inſultum & affraiam fecit, *&c.* ut in alio.

Upon a Replevin.

AB queritur verſus T L de placito, quare bona & catalla ipſius A B cepit, et ea injuſte detinuit, contra vad. & pleg. &c. Pro eo quod cum prædictus T L die, anno, &c. apud S &c. in quodam loco ibidem vocat. R in Com. prædicto, &c. bona et catalla ipſius A B videlicet, ſeptem Vaccas ad valenc. xxx l. cepit; Et eaſdem injuſte detinuit, contra Vad. et pleg. quouſq; &c. Unde prædictus A B dic. quod deteriorat. eſt et damnum habet ad valenc. 49 s. Et inde produc. ſectam, &c.

Placita. Nil debet.

ET præd. A B ven. & defend. vim & injur. quando, &c. & dic. quod præd. I G actionem ſuam prædictam versus eam habere non debet, quia dici quod ipſe idem I A non debet præfat. I G modo & forma prout prædictus I G superius verſus prædict. I A narravit; & de hoc pon. ſe ſuper patriam, &c.

Non Aſſumpſit.

ET prædictus H B ven. & defend. vim & injur. quand &c. & dic. quod ipſe non aſſumpſit & promiſit præfat. T R modo & forma prout prædictus T R verſus eum narravit; Et de hoc ponit ſe ſuper patriam, &c.

Non Aſſumpſit infra ſex annos.

ET prædictus W B ven. & defend. vim & injur. quand &c. & dic. quod ipſe idem W B infra ſpacium ſex annorum ante inceptionem hujus ſecte non aſſumpſit ſuper ſe, vel ſolvere promiſit præfat. T B prædict. ſum. xxx modo & forma prout præd. T B ſuperius verſus eundem W B narravit; Et de hoc pon. ſe ſuper patriam, &c.

Ne unques Executor.

ET prædictus E H ven. & defend. vim & injur. quand &c. & dic. quod prædictus T C actionem ſuam præd ctam verſus eam habere non debet, quia dic. quod ipſe nunquam fuit Executor. teſtamenti & ultime voluntat prædict. R H nec aliqua bona ſeu catalla quæ fuer. ejusdem R H tempore mortis ſue ut Executor. teſtamenti & ultime voluntat. præd. R H poſt mortem ipſius R H ut

quam administravit; Et hoc præsat. E H parat. est verificare: Unde pet. Judicium si præd. T C actionem suam prædictam versus eum habere sive maintenere debeat, &c.

Plene Administravit.

ET prædictus M A ven. & defend. vim & injur. quando, &c. & dic. quod prædictus A B actionem suam prædictam versus eum habere non debet, quia dic. quod ipse plene administravit omnia bona & catalla quæ fuer. prædict. T A tempore mortis sue, & quod ipse nulla habet bona seu catalla quæ fuer. præd. T A. tempore mortis sue in manibus suis administrand. nec habuit tempore intrationis hujus loquel. ipsius A B nec unquam postea; Et hoc parat. est verificare: unde pet. judicium si prædictus A B actionem suam prædictam versus eum habere debeat, &c.

Replication.

ET prædictus A B dic. quod ipse per aliqua preallegat. ab actione sua prædicta habend. præcludi non debet, quia dic. quod præfatus M A die intrationis hujus loquel. scilicet, die, anno, *&c.* apud Cestr. prædictum, & infra jurisdictionem prædictam, diversa bona & catalla habuit quæ fuer. prædicti T A tempore mortis sue in manibus suis administrand. ad valenc. debiti prædicti, unde eidem A B de debito prædicto satisfeciſſe potuit; Et hoc pet. quod inquiratur per patriam: Et prædictus M A similiter, &c.

Non culp.

ET prædictus G W ven & defend. vim & injur. quando, &c. & dic. quod ipse in nullo est culpabilis de transgr. prædicta, prout prædictus I C superius versus eum narravit; Et de hoc pon. se super patriam, &c.

Infra

Infra ætatem.

ET prædictus H C ven. et defend. vim & injur. quan &c. Et dic. quod prædictus W B actionem suam pr ctam versus eum habere non debet, quia dic. quod tempore confectionis script. obligator. prædict. fuit ætatem xxi annorum; Et hoc parat. est verificare; u per. judicium si prædictus W B actionem suam præ versus eum habere debeat, &c.

Solvit & Releasa.

ET prædictus I S ven. et defend. vim et injur. quan &c. Et dic. quod predictus I W actionem suam pr clam versus prefat. I S habere non debet, quia dic. q prædictus I W post confectionis et usdem billæ, et incep dem hujus secte, videlicet, die, anno, &c. apud Calli per quoddam scriptum suum, &c. cognovit et confessus fore plenar. satisfact. et content. de predicta summa in billa predicta mentionat; et inde acquietavit et rela vit eundem I S de et ab omnibus actionibus quas predict I W versus eundem S ratione confectionis billæ prædi habere poterit; Et hoc parat. est verificare; unde pet. dic. si pred. I W actionem suam pred. versus eum habe debeat, &c.

Liberum tenementum.

ET predictus H S ven. et defend. vim et injur. quan &c. Et dic. quod predictus W B actionem suam pred clam habere sive maintenere non debet, quia dic. quod clau sum pred. voc. T apud F in narratione superius menti nat. in quo transgr. pred. suppon. fieri, est et predicto tem pore quo supponitur transgr. pred. fieri, fuit solum et li brum tenementum ipsius H S per quod pred. H S ingres intravit in clausum predict. voc. T et blada et herbam ib dem crescend. et exiscend. pedibus ambulando conculca

& conſumpſit, ac al. blada, herbam et fenum in clauſo predicto exiſtend. cum equis, bobus et vaccis depaſt. fuit, conculcavit et conſumpſit, tranſgr. predict. prout in narratione predicta ſuperius ſpecificat. continuand. prout ei bene licuit; Et hoc parat. eſt verificare; unde pet. judic. ſi pred. W R action. ſuam predictam verſus eum habere debeat, &c.

Plea al. Juriſdiction.

ET predictus G F in propria perſon. ſua ven. et dic. quod predictus C B actionem ſuam predictam verſus prefat. G F in hac Cur. habere ſive maintenere non debet, quia dicit quod actio predicta eſt placit. ad reddend. compot. &c. Unde predict. G F pet. judic. ſi iſta Cur. placitum predictum cognoſcere velit, &c.

Judgment Arreſt.

ET pred. R M dic. quod veredict. pred. verſus eum reddit ex parte prefat. M S exiſtere vel proſequi non debet, quia dic. quod narratio predicta & materia in ea content. inſufficiens eſt in lege ad actionem predictam verſus eum dand. ſive maintenend. Unde pet. judicium, et quod loquela et veredict. predicta quoad. ſint et pro nullo habeantur, et quod predictus querens nihil recipiat per loquel. ſuum et verdict. ſupradict. &c.

Conditiones perform. ſuper Articulis.

ET pred. W C ven. et def. unam et injur. quando, &c. et per. audit. ſcripti pred. et ei legitur, &c. per. etiam audit. conditionis ejuſdem ſcripti, et ei legitur, in hæc verba, (videlicet) *The Condition of this Obligation (recite all the Condition)* quibus lectis et audit. idem W G dic. quod pred. C G actionem ſuam pred. verſus eam habere non debet, quia dic. quod artic. in condition pred. ſuperius mentionat. fact.

fact. fuer. apud Y in, &c. die, anno, &c. præd. inter eo
dem C G de A in dicto Com. gen. ex una parte, & p
dict. W G per nomen W G de eiſdem Vill. & Comitat. Y
man, ex altera parte, cujus quidem alteram partem
nat. cum ſigill. ejuſdem C G prædictus W G hic in C
profert. cujus dat. eſt eoſdem die & anno, Imprimis, (
cite all the Articles throughout) & præfat. W G dic. qu
ipſe performavit & ſervavit omnia & ſingula conventione
conceſſiones, articulos, clauſis, ſentenc. & agreament
cunq; in articulis predictis ſpecificat. ex parte ſua obſ
vand. performand. complend. & ſervand. ſecund. form
& effectum eorundem Articulorum; Et hoc parat. eſt v
rificare: unde pet. judicium, ſi predictus C G actionem
am predictam verſus eum habere debeat, &c.

Replicatio.

ET predictus C G dic. quod ipſe per aliqua preallega
ab actione ſua predicta habend. verſus prefat. W G p
cludi non debet, quia proteſtando quod ipſe idem W
non performavit ſive ſervavit aliqua conventiones, conce
ſiones, articulos, clauſis, ſentenc. vel agreament. in artic
lis pred. ſpecificat. ex parte ſua performand. & ſervand
prout predictus W G placitando ſuperius allegavit p
placito: predictus C G dic. quod predictus W G non, &
(*recite the breach*) ſecund. formam & effectum eorunde
articulorum; Et hoc parat. eſt verificare: unde pet. jud
cium, & debitum ſuum predictum, una cum damnis ſu
occaſione detentionis debiti illius, ſibi adjudicari, &c.

Rejoynder.

ET pred. W G dic. quod ipſe (*recite here, that he di
perform the breach which the Plaintiff aſſigned*) ſecund
vim & effectum dictorum articulorum; Et de hoc pon
ſuper patriam: Et pred. C G ſimiliter, &c.

Nil detinet.

ET predictus R S ven. & defend. vim & injur. quando, &c. & dic. quod ipſe catalla predicta prefat. R L non detinet, neq; aliquam parcell. inde modo prout predictus R L ſuperius verſus eum narravit; Et de hoc pon. ſe ſuper patriam, &c.

Barr per Acquittance.

QUando, *&c.* actionem ſuam habere non debet, *&c.* quia dic. quod poſt confectionem ſcripti predicti (ſcilicet) die, anno, *&c.* querens per quandam billam ſuam acquietanc. quam dictus defendens ſigillo querentis ſignat. hic in Cur. profert, cujus dat. eſt eiſdem die et anno, acquietavit et exoneravit ipſum eundem defendentem per nomen, *&c.* de omnibus actionibus, placitis, demand. debitis, computis et litibus a principio mundi uſq; diem dat. ejuſdem bille; Et hoc, *&c.* ſi judicium, *&c.*

Replicatio.

QUerens dic. quod precludi non debet, *&c.* quia dic. predicta billi acquietanc. non eſt factum ſuum; Et hoc per. *&c.*

Juſtification de Slander.

ET, *&c.* quando, *&c.* Et dic. quod predictus G L actionem ſuam predictam verſus eum habere non debet, quia dic. quod ante dictionem ſcandaloſorum verborum pretenſ. in narratione predicta mentionat. (videlicet) die, anno, *&c.* apud, *&c.* predictus G L un. Vervecem, anglice *a Weather-ſheep*, ad valenc. x s. *&c.* de bonis et catall. ipſius H A in narratione predicta mentionat. adtunc

et

& ibidem invent. felonice furavit, cepit & asportavit, contra pacem Dom. Regis nunc, &c. prætextu cujus prædict. F G postea, scilicet, die, anno, &c. apud, &c. scandalosa verba pretens. in narration. prædict. mentionat. dixit, affirmavit & declaravit eidem L G, videlicet, *Thou* (præfat. G innuend.) *art a Thief, and stole* H A's *Sheep*: Et hoc parat. est verificare; unde pet. judicium, si prædictus G actionem suam prædictam inde versus eum habere debeat, &c.

Tender amends in Replevin.

ET pred. H dic. &c. just. caption. &c. advocare non debet, quia dic. quod post tempus prædictam captionis veriorum prædictorum in loco prædicto, in quo, &c. ante diem emanationis præcept. de replegiar. ipsius H scilicet, die, anno, &c. prædict. apud W predict. præfat. obtulit xii d. ad solvend. eisdem W et I ad usum ejusdem W pro damnis ipsius W quæ sustinuit occasione transgr. prædict. quam averia prædicta in prædictis duobus acr. terr. fecer. quiquidem xii d. fuer. sufficien. emend. pro transgr. prædicta quam averia prædicta in prædictis duobus acr. terr. fecer. quos quidem xii d. præd. VV. & I tunc & ibidem de eodem H recipere penitus recusaban. hoc, &c.

Solvit to part, and tender to other part.

ET, &c. quando, &c. & dic. quod prædictus I G actionem suam prædictam versus eum habere seu manutenere non debet, quia quoad xx s. parcelle, &c. idem I dic. quod præfat. I A die, anno, &c. ante inception. hujus actionis bene et fidelit. solvit eidem I G xx s. parc. sup. mentionat. debit. in narratione prædicta specificat. videlicet, apud B præd. & infra Jurisdiction. hujus Cur. quoad quinq; solid. & sex denar. residu. debiti, in narratione prædict. specificat. idem I A ulterius dic. quod ipse postea, scilicet, die, anno, &c. præd. ante inception. hujus

actionis apud B præd. obtulit eidem I G prædict. quinq; solid. & sex denar. quos quidem quinq; solid. & sex denar. idem I G adtunc & ibidem acceptare recusavit: Et hoc præfat. I A parat. est verificare, & pet. judicium Cur. si prædict. I G actionem suam prædict. versus eum habere debeat, &c.

Replication.

ET præd. I G quoad placitum præfat. I A quoad prædict. xx s. parcell. debiti prædicti, dic. quod ipse per aliqua præallegat. ab actione sua prædicta versus eum habend. præcludi non debet, quia dic. quod prædictus I A non solvit prædict. xx s. eidem I G prout prædictus I A superius allegavit; Et hoc pet. quod inquiratur per patriam: & præd. I A similiter, &c.

Et quoad prædict. placitum ejusdem I A quoad præd. quinq; solid. & sex denar. resid. debiti prædicti prædictus I G dic. quod prædict. placitum ejusdem I *A* modo & forma prædict. placitat. & mater. in eodem content. non est sufficiens in lege ab actione sua prædicta versus eundem I A habend. præcludendi. Et quod placito prædicto modo & forma prædicta placitat. necessitas non habet, neq; tenetur per legem respondere; Unde pro defectu sufficien. responsionis in hac parte, prædictus I G pet. judicium, & præd. 5 s. 6 d. resid. debiti sui prædicti, una cum damnis suis, occasione detentionis debiti illius sibi adjudicari, &c. *Demur to the other plea.*

Non est factum.

ET, &c. quando, &c. Et dic. quod ipse de debito prædicto virtute scripti prædicti onerari non debet, quia dic. quod scriptum prædictum non est factum suum; Et de hoc pon. se super patriam, & præd. A similiter, &c.

Per minas.

ET, &c. quando, &c. Et dic. quod prædictus A actionem ſuam prædictam verſus eum habere non debet, quia dic. quod præd. A tempore confectionis ſcript. prædict. apud N præd. eidem B tales & tantas minac. de vita ſua, & murilarione membrorum ſuorum ſibi inferend. impoſuit, niſi ipſe ſcript. præd. præfat. A facere & ſigillare vellet, quod idem B ſcriptum illud ob metum minarum illarum præfat. A adtunc & ibidem fecit; Et hoc parat. eſt verificare: unde pet. judicium ſi præd. A actionem ſuam prædictam virtute ſcripti prædicti verſus eum habere debeat, &c.

Replica.

ET prædictus A dic. quod ipſe per aliqua præallegat. ſe actione ſua prædict. habend. præcludi non debet, quia dic. quod prædict. A tempore confectionis ſcripti prædicti fuit ſui juris ad largum, & ſcriptum illud ex mera & ſpont. tan. voluntate ſua præfat. A fecit, & non ob metum minarum prout prædictus R placitando allegavit; Et hoc pet. quod inquiratur per patriam: & prædict. B ſimiliter, &c.

Per dureſſe.

ET, &c. quando, &c. Et dic. &c. quia dic. quod tempore confectionis ſcripti prædicti impriſonat. fuit per eundem A & al. de Govina ſua, videlicet, apud N præd. & ibidem in priſona detent. quouſq; idem B per vim & duritiem impriſonament. illius ſcriptum illud adtunc & ibidem eidem A fecerat: Et hoc parat. eſt verificare; unde pet. judicium, &c.

Replica

Replic.

ET prædictus A dic. quod ipse, &c. quia dic. quod prædictus B tempore confectionis scripti prædicti fuit sui juris ad largum, et extra quamlibet prison. et scriptum illud ex mera et spontanea voluntate sua eidem A fecit, et non per vim et duritiem imprisonament. prout præfat. B superius allegavit; Et hoc pet. quod inquiratur per patriam; Et præd. B similiter, &c.

De son assault demesne.

ET, &c. quando, &c. Et quoad transgr. et insult. præd. superius fieri suppositum. idem I R dic. quod prædictus R W actionem suam prædictam versus eum habere non debet, quia dic quod prædictus R W dic, anno, &c. prædict. in ipsum I R apud Castrum, &c. insult. fec. et ipsum verberasse, vulnerasse, et male tractasse voluit, per quod idem I R seipsum erga præfat. R W adtunc et ibidem defendebat: et dic. quod damnum et malum si quod eidem R W adtunc et ibidem evenit, hoc fuit de insult. ipsius R W propr. et in defensione ipsius I R Et hoc parat. est verificare; unde pet. judic si præd. R W actionem suam prædictam versus eum habere debeat, &c.

Replic.

ET prædictus R W dic. quod ipse per aliqua præallegat. ab actione sua prædict. habend. præcludi non debet, quia dic. quod prædictus I R die, anno, &c. supradict. apud &c. in narratione sua prædicta superius specificat. vi et armis, &c. de injur. sua propr. et absq; causa pet. præfat. R W superius allegat. in ipsum R W insult. fec. et ipsum verberavit, vulneravit, et male tractavit; Ita quod de vita ejus desperabatur, contra pacem Dom. Regis nunc: prout idem

R W ſuperius verſus eum quæritur; Et hoc pet. quod inquiratur per patriam, & prædictus I R ſimiliter; Ideo, &c.

Quod quær. eſt infra ætatem, & debuit proſequi per proxim. amicum.

ET, &c. quando, &c. Et dic. quod prædictus I R actionem ſuam prædictam verſus eum habere non debet, quia dic. quod prædictus I R die & anno in narratione ſpecificat, ſcilicet, die, anno, &c. & die emanationis brevis de Juſtic. ipſius I R ſcilicet, die, anno, &c. fuit infra ætatem viginti & unius annorum; Et quod prædictus I R verſus eundem P G narravit in loquela prædicta per *Attorn.* ſuum, cum per debit. form. Legis narraſſe debuit per prox. amicum ſuum; Et hoc parat. eſt verificare; unde per. judicium, ſi prædictus I R actionem ſuam prædictam verſus eum habere debeat, &c.

Non cul. ad partem, and tender amends ad al. partem.

ET, &c. quando, &c. Et quoad fraction. Clauſis præd. ac etiam quoad conculcation. bladarum & herbe prædict. pedibus ambuland. in eiſdem quatuor acr. terr. præd. de novo aſſignat. ſuperius fieri ſuppoſit. dic. quod ipſe in nullo eſt culpabilis, &c. Et de hoc pon. ſe ſuper patriam, & quærens ſimiliter. Et quoad reſid. tranſgr. præd. in eiſdem quatuor acris terr. de novo aſſign. ſuperius fieri ſuppoſit. idem *A* dic. quod prædictus B actionem ſuam prædictam habere non debet, quia dic. quod reſid. tranſgr. præd. in eiſdem quatuor acr. terr. de novo aſſignat. ſuperius fieri ſuppoſit. fuit fac. cum averiis prædictis per negligentiam, & contra voluntatem ejuſdem *A* Et quod idem *A* poſtea, & ante inception. hujus actionis ipſius B ſcilicet, 16 die *Maii*, anno, &c. apud eandem Parochiam de R in dicto Com. Ebor. eidem B obtulit xx s. legalis monet. *Angl.* pro & in ſatisfaction. reſid. tranſgr. præd. ſicut præfertur fact. qui quidem xx s. ſufficien. emend. fuer. pro eod. reſid.

ſid. tranſgr. præd. in eiſdem quatuor acr. terr. cum pertinen. de novo aſſignat. ut præfertur fact. Et quod prædictus *B* prædictos xx s. ſicut præfertur oblat. de eodem *A* recipere adtunc & ibidem penitus recuſavit, & adhuc recuſat; Et hoc parat. eſt verificare; unde, &c.

Replic.

ET prædictus *B* quoad placitum prædictum ipſius *A* quæ addictum reſid. tranſgr. præd. in eiſdem quatuor acris terr. cum pertin. de novo aſſignat. fact. dic. quod ipſe per aliqua in eodem placito præallegat. ab actione ſua prædicta verſus eum habend. præcludi non debet, quia proteſtand. quod prædictum reſid. tranſgr. præd. in eiſdem quatuor acr. terr. cum pertin. de novo aſſign. non fuit fact. averiis prædictis per negligentiam & contra voluntatem ejuſdem *A* proteſtando etiam quod præd. xx s. in ſatisfactione tranſgr. præd. non oblat. fuer. ante eandem diem inception. ſecte ejuſdem B prout præfat. *A* ſuperius allegavit pro placito: idem B dic. quod præd. xx s. oblat. fuer. per eundem *A* eidem *B* pro quadam tranſgr. per eundem A cum averiis prædictis eidem B in quodam al. Claufis terr. cum pertin. vocat. le S. ipſius B in Paroch. de R. præd. in Com. prædicto fact. abſq; hoc quod idem *A* obtulit eidem B prædictos xx s. pro & in ſatisfactione prædicti reſid. tranſgr. prædicte in eiſdem quatuor acris terr. de novo aſſign. fact. prout idem *A* ſuperius allegavit; Et hoc parat. eſt verificare; unde quia idem *A* prædict. reſid. tranſgr. præd. in eiſdem quatuor acr. terr. cum pertinen. præd. de novo aſſign. fact. ſuperius cognovit: idem B pet. judicium,& damna ſua occaſione reſid. tranſgr. præd. ſibi adjudicari, &c.

Rejoynder.

ET prædictus A ut prius dic. quod ipse obtulit eidem pred. xx s. proxim. satisfactionem ejusdem resid. tranſgr. pred. in predictis quatuor acr. terr. cum pertinen. de novo assign. fact. prout ipse superius allegavit; Et de hoc pon. se super patriam; Et predictus B similiter: Ideo &c.

Abatement per miſnoſmer.

ET predicta A per *Simon Don* Attorn. suum ven. et pet. Judic. de brevi de Justic. predict. quia dic. quod nomen baptism. ejusdem Agner. in brevi predicto nominat. est *Ama*, et non *Agnet*. prout predictus B superius narravit. Et hoc parat. est verificare; unde pet. judicium de predicto brevi de Justic. Et quod predict. breve de Justic. quassetur.

Abatement per variance enter brief & Count.

ET predict. A per I R Attorn. suum ven. et pet. Judicium de brevi de Justic. pred. quia dic. quod ipse est eadem persona versus quem predictus B protulit breve suum pred. per nomen B D alias E *Yeoman*, et per idem nomen B D alias E die imperrationis brevis de Justic. ipsius B et semper postea hucusq; cognit. et vocat fuit, et per idem nomen B D alias E versus eundem A in narratione sua predicta nunc declaravit; absq; hoc quod idem B nominatur sive vocat. *Johannes* alias *Henricus*, vel per idem nomen B D alias E ullo tempore cognit. vel vocat. Et hoc parat. est verificare; unde pet. judicium de brevi de Justic. pred. &c.

sa-

Inholder plead al Trover que il detaine un chivall pour ſes victualls.

ET pred. A dic. quod ipſe eodem tempore quo predictus Equus in narratione predicta ſpecificat. ad man. ſuas venire ſupponit. et per duos annum tunc ult. elapſ. et ſemper poſtea fuit, et adhuc exiſtit communis Hoſpitator, et tenet quoddam commune Hoſpitium voc. le *George* in Paroch. et Vill. de *Harwood*, in dicto Com. Ebor. Et quod quidam C D xii die *Auguſti*, anno predicto, apud Paroch. et Vill. de H pred. ad commune Hoſpitium ipſius A ven. ſecum ducend. equum predictum in Hoſpitium predict. quem quidem equum predictus C D eodem xii die *Auguſti* ſupradict. uſq; xxiiii diem *Junii*, anno, *&c.* ſupradict. in Hoſpitio ejuſdem A ad paſtum reliquit, et quod predictus paſtus ipſius A depaſt. et conſumpt. infra idem Hoſpitium per eundem equum inter pred. xii diem *Auguſt.* anno, *&c.* et predict. xxiiii diem *Junii* anno ſupradicto, valebat octo libr. et decem ſolid. legalis monete *Angliæ*: Et quod nemo infra tempus iſtud ſolvit prefat. pro paſtu predicto, neq; pro eodem cum predicto A compoſuit ſive agreavit; unde quidam L M N O ac al. legales & probi honeſtes vicin. ipſius A et inhabitand. et remanend. infra dictam Paroch. de H in Com. predicto, ad requiſitionem ipſius A poſtea, ſcilicet, xxiiii die *Junii* ſupradict. apud Vill. & Paroch. de H rationabilit. appreciarunt Equum predictum ad ſex libr. et decem ſolid. et nil amplius; unde idem A poſtea, ſcilicet, predicto xxiiii die *Junii*, anno predicto, apud Paroch. de H predict. eundem Equum in manibus ſuis retinuit: ergo ſatisfactionem ejuſdem A pro paſtu predicto et equum ill. ad uſum A propr. adtunc et ibidem convertit et diſpoſuit prout ei bene licuit; Et hoc parat. eſt verificare; unde per. judic. ſi querens actionem, &c.

Placitum licentiæ.

ET præd. *A* quoad tranſgr. præd. quoad fractionem Clauſ. prædicti & depaſt. &c. cum averiis, &c. & conculcation. &c. pedibus ſuis ſuperius fieri ſuppoſit. dic. quod idem ante tempus illud quo, &c. ſcilicet, xxii die *Maii*, an. &c. apud *Skipton* prædictum in Com. prædicto, & infra riſdictionem hujus Cur. licentiam dedit eidem *A* in tenementa prædicta cum pertin. (de novo affign.) intrare, imponere averia prædicta ad herbam in tenementa prædicta cum pertin. (de novo affign.) adtunc & ibidem ex ſcen. de paſcend. virtute cujus licen. idem defend. eodem tempore quo, &c. in tenementa prædicta cum pertin. quibus, &c. intravit, & averia ſua prædicta ad herbam de paſcend. ibidem impoſuit, & eadem averia eodem tempore quo, &c. virtute licent. præd. herbam prædict. in tenementa predicta cum pertin. depaſt. fuer. conculcaver. & conſumpſer. que quidem fraction. Clauſis prædict. et depaſt. conculcat. & conſumptio herbe predicte cum averiis predictis in tenementis predictis cum pertin. ſuperius de nov. affign. & conculcatio & conſumptio al. herbe pred. in eadem tenementis pedibus ambulando virtute licent. predict. & pro cauſa pred. in forma ſicut preſertur fact. eſt cadit fractio Clauſis, &c. Et hoc, &c.

The Plaintiff replies, de injur. propria, *and traverſes the liberty; and the Defendant juſtifies he gave the liberty and iſſue thereupon.*

Avowry pro redditu.

ET pred. *A B* per S D *Attorn.* ſuum ven. & defend. vim & injur. quando, &c. & bene advoc. caption. averiorum predictorum in predicto loco quo, &c. & juſte, &c. quia dic. quod predict. locus in quo, &c. eſt & tempore captionis pred. & ante fuit quatuor acr. terr. in M predicta, & dic. quod diu ante tempus captionis predicte ſupe-

rius fieri ſuppoſit. ac eodem tempore predictus *A* B fuit ſeiſit. in Dominico ſuo ut de Feodo, de un. meſſ. un gardin. & quatuor acris terr. & un. acr. boſc. cum pertinen. in M prædicta, de quibus idem locus in quo, &c. eſt et predicto tempore quo, &c. fuit parcell. et ſic inde exiſten. ſeiſit. eadem Meſſuag. Gardin. terr. et Boſc. cum pertin. diu ante tempus captionis predicte, ſcilicet, ad Feſtum Annuntiationis beate *Mariæ* Virginis, anno, &c. apud M predict. eidem C D demiſit habend. ſibi a Feſto predicto, tamdiu eadem A B placuerit, redd. inde annuatim eidem A B (tamdiu prefat. C D haberet et occuparet predicta meſſuag. Gardin. terr. et Boſc.) xxx s. ad Feſt. Sancti *Mich.* Archang. et Annuntiation. beate *Mariæ* Virginis, per equal. portion. annuatim ſolvend. virtute cujus dimiſſionis predictus C D predict. meſſuag. Gardin. terr. et Boſc. cum pertin. a predicto Feſto Annuntiationis, &c. uſq; ad feſtum Annuntiationis, &c. proxim. ante tempus captionis predict. habebat et occupaverat; Et quia xxx s. de redditu predicto virtute ejuſdem dimiſſionis per tempus predict. eidem A B tempore captionis predict. in arretag. remanſer. et adhuc remanent. inſolut. idem A B bene advoc. captionem averiorum predictorum in dicto loco in quo, &c. et juſte, &c. Et hoc parat. eſt verificare; unde pet. judicium, et retorn. averiorum predictorum ſibi adjudicari, &c.

Barr in treſpaſs, that the goods were delivered as a Pawn.

ET predictus A B per, &c. ven. et defend. vim & injur. quando, &c. Et quoad fraction. Clauſis, &c. in nullo eſt inde culpabilis, et de hoc, &c. et quoad reſid. tranſgr. pred. ſuperius fieri ſuppoſit. idem A B dic. quod predict. C D actionem ſuam predictam habere non debet, &c. quia dic quod idem C D diu ante predict. tempus quo, &c. eidem A B indebitat. fuit in xxii s. pro diverſis denar. ſummis per eundem C D de predicto A B mutuat. et poſtea, et diu ante tempus predict. quo, &c. idem C D apud, &c. eidem A B bona et catalla predicta deliberavit tanquam pignus pro predictis xxii s. tenend. eidem A B ut pignus quouſq; predictus C D prefat. A B eoſdem xxii s. ſolviſſet. Et idem A B in facto dic. quod prefat. C D predictos xxii s.

eidem

eidem A B nondum ſolvit quod eſt eadem tranſgr. et ſ
pio et aſportatio bonorum et catallorum predictor
unde pred. C D ſuperius moda queritur; Et hoc, ſ
Unde, &c.

Replic.

ET pred. C D dic. quod ipſe per aliqua præallegat. ab
ctionem ſuam predict. habend. precludi non debet qu
dic. quod prefat. A B de injur. ſua propria, et abſq; alio
tali cauſa per ipſum eundem A B præallegat. die et an
predictis, bona et catalla predicta apud R in dicto Co
Ebor. invent. cepit et aſportavit, prout predictus C D
narratione ſua predicta ſuperius ſuppoſit. Et hoc pet. qu
inquiratur per patriam; Et pred. A B ſimiliter. Ideo, &c

Concord plead.

ET predictus A B in propr. perſon. ſua ven. et defend
vim et injur. quando, &c. Et quoad tranſgr. pred. ſup
rius fieri ſuppoſit. idem A B dic. quod predictus C D ac
onem ſuam predictam verſus eum habere non debet, qu
dic. quod poſtquam tranſgr. pred. fieri ſuppoſit. fact. fu
ſcilicet, octavo die *Julii*, anno, &c. pred. apud S pred.
Com. pred. et infra libertatem et juriſdictionem iſti
Cur. iidem A B et C D per mediation. E F et G H a
micorum et familiaritat. ſuorum, inter eos amicabiliter in
terveniend. talis habebatur concordia inter eos, viz. quo
idem A B v s. legalis monete *Angliæ* eidem C D pro
mend. et ſatisfaction. ejuſdem tranſgr. ſolveret; quos qu
dem v s. &c. idem A B prefat. C D adtunc et ibidem ſo
vit, ſecund. vim, formam et effect. concord. pred. Et hoc
&c. Unde pet. judic. &c.

Replic.

Replic.

ET pred. C D dic. quod ipſe per aliqua præallegat. ab actione ſua predicta habend. precludi non debet, quia dic. quod nunquam habeatur aliqua talis concord. ſive agreament. inter ipſos C D et A B qualis predictus A B ſuperius placitando allegavit; Et hoc pet. quod inquiratur per patriam; Et pred. A B ſimiliter, &c.

Avowry pour Herriott.

ET pred. C D per, &c. ven. et defend. vim et injur. quando, &c. Et quoad caption. ejuſdem bovis idem C D bene advoc. caption. ejuſdem bovis in dicto loco quo, &c. et juſte, &c. quia dic. quod durante caption. ejuſdem bovis ſuperius ſuppoſit. quidam I G de un. meſſuag. cum pertin. in W predicta fuit ſeiſit. in Dominico ſuo et de Feod. et ſic inde ſeiſit. idem I G illud tenuit de predicto C D per fidelitat. et redd. xii d. eidem C D annuatim ad Feſt. Annuntiation. Beate *Mariæ* Virginis, &c. et Sancti *Mich.* Archang. per equal. portion. ſolvend. ac etiam per ſervic. quod unuſquiſq; tenend. ejuſdem meſſuag. cum pertin. de eodem in Dominico ſuo ut de Feodo ſeiſit. vel in uſu a tempore cujus contrarii memoria hom. non exiſtit debuit et conſuet. fuiſſe eidem C D et hered. ſuis optim. animal ejuſdem tenentis dict. meſſuag. cum pertin. ſic decedend. inde ſeiſit. in Dominico ſuo ut de Feodo, vel in uſu, per nomen Herrietti reddere; de quibus ſervic. pred. C D fuit ſeiſit. per man. ipſius I G tanquam per man. veri tenentis ejus, videlicet, de predicta fidelitat. ut de feod. et jure, et de predict. redd. in Dominico ut de feodo: et poſtea idem I G de predicto meſſuag. cum pertinen. ſeiſit. in Dominico ſuo ut de feod. obiit, et quia predictus Bos fuit Bos propr. ejuſdem I G tempore mortis ſue, idem C D tanquam optimum animal quod fuit ipſius I G tempore mortis ſue per nomen Herriet. cepit et juſte, &c.

Barr for default of the Plaintiffs fences.

ET predicti A & B per I R Attorn. ſuum ven. & fend. vim et iniur. quando, &c. Et quoad fractionem Cl ſis pred. et depaſt. conculcation. et conſumption. hab predicte iidem A et B dicunt quod predictus D actione ſuam predictam verſus eos habere non debet, quia dic quod idem A et B tempore tranſgr. pred. fieri ſuppo fuer. & adhuc exiſtunt ſeiſit. de quodam Clauſis paſt proxim. adjacen. eidem Clauſo ipſius D in quo, &c. predict. in Dominico ſuo ut de Feodo, inter quos quid Clauſis quedam eſt ſepes ſeperan. quemq; ab al. pr Clauſis, quam quidem ſepem predictus D et omnes quorum ſtatum ipſe idem D tunc habuit in Clauſo pre cto a tempore cujus contrarii memoria homin. non exiſt facere, reparare et manutenere uſi fuer. et dicunt quod pes illa pro defectu reparationis et manutentionis ejuſd fuit tempore tranſgr. pred. fieri ſuppoſit. rupt. et p ſtrat. et quod averia predictorum A et B in eorum Cl ſis pred. ad depaſcend. poſit. in predictum Clauſum ip us D per rupt. et decaſſ. ejuſdem ſepis, contra volunt eorundem A et B intraver. et herbam predictam d paſt. fuer. conculcaver. et conſumpſer. iidem A et B a ria ſua predicta recenter proſequen. in eundem Clauſu ipſius D per rupt. et decaſſ. predict. ad averia ſua in undem Clauſum ipſorum A et B refugand. intraver. ac Clauſis illud celeriter fugaver. prout eis bene licuit, quo eſt eadem tranſgr. et fractio Clauſis, et eadem depaſt. co culcatio et conſumptio herbe predicte; Unde predict D ſuperius verſus eos queritur; Et hoc parat. ſunt ver ficare, &c. unde, &c.

Avowry

Avowry for dam. feasant.

ET predictus A per, *&c.* ven. et defend. vim et injur. quando, *&c.* et bene ad voc. caption. vaccarum prearum in dicto loco quo, *&c.* et juste, *&c.* quia dic. od ipse seisitus est, ac tempore captionis pred. seisitus fude un. messuag. et xii ac. terr. cum pertin. in dicta Villde S de quibus locus in quo predict. vacc. capt. fuer. parcell. in Dominico suo ut de feodo; Et quia ipse mpore captionis pred. vaccas predictas in loco predicto uo, *&c.* damn. faciend. invenit, predictus A easdem vacas in sol. et libero tento suo damnum ibidem sic faciend. epit, prout ei bene licuit; Et hoc parat. est verificare, unde per. judicium, et retorn. averiorum predictorum, *&c.*

Misnomer in the Writ of Justicies.

ET super hoc ven. *Alvered Pease* per *W O* Attorn. suum, et dic. quod ipse virtute ejusdem brevis de Justic. exsisten. suum per nomen *Abraham Pease*, nec est neq; intelligi potest esse eandem person. versus quam pred. E protulit breve suum per nomen *Abraham Pease*, quia dic. ipse nominatur et vocat. *Alvered Pease*, et per eundem nomen et cognomen a tempore nativitatis sue semper cognit. et vocat. absq; hoc quod nominatur sive vocat. *Abraham Pease*, aut per idem nomen et cognomen unquam cognit. vel vocat. prout per breve illud supposit. Et hoc pred. *Alvered* parat. est verificare; unde per. judic. brevis predicti, et quod idem breve quassetur, *&c.*

Non

Non cepit.

ET predictus B per S H Attorn. ſuum ven. & defend. vim et injur. quando, &c. Et dic. quod ipſe non cepit ria predicta prout predictus A ſuperius verſus eum ritur; Et de hoc pon. ſe ſuper patriam, et predictus militer, &c.

Barr in repleg. per property.

ET pred. B per S H Attorn. ſuum ven. et defend. vim et injur. quando, &c. Et dic. quod proprietas ave rum predictorum tempore ſuppoſit. eorum captioni predicto B fuit, et non in præfat. A Et hoc parat. eſt rificare; unde pet. judicium, &c.

Demurrer ad narr.

ET prædictus *B* per *C D* Attorn. ſuum ven. et defe vim et injur. quando, &c. Et dic. quod Narratio ip P et mater. in ea content. minus ſufficien. in lege ſtunt pro predicto P actionem ſuam predictam habe verſus eum manutenere: Et quod eidem Narrationi m et forma pred. fact. idem B neceſſe non habet, neq; legem terre tenetur reſpondere: et pro cauſis moræ in in hac parte, pred. B ſecund. formam Statut. in hac pa proviſ. oſtendit Cur. hæc cauſas ſequend. videlicet, qu Narratio in ſe continet duplicem & inſufficien. mater et forma coeret; Et hoc parat. eſt verificare; unde defectu Narrationis ſufficien. in hac parte, idem B pet. dic. Et quod pred. P ab actione ſua verſus eum habe prædudatur, &c.

Joint

Joinder in Demurrer.

ET pred. P dic. quod ipſe ſuperius narrand. in narratione ſua predicta allegavit materiam in lege ſufficien. actionem ſuam pred. habend. verſus eundem B manutenere; & hoc parat. eſt verificare: quem materiam prædictus B non dedicit, nec ei aliquid reſponſit, ſed omnino recuſat verificationem illam admittere; unde per. judicium, & defectionis debiti illius ſibi adjudicari.

Si in tranſgr. ſic.

Et. judic. & damna ſua ratione ejuſdem tranſgr. vel tranſgr. & inſult. vel tranſgr. inſult. & impriſonament. (*as the caſe is*) ſibi adjudicari, &c.

In caſe.

Et. judicium & damna ſua occaſione ſuperius ſpecificat. ſibi adjudicari, &c.

OF

OF THE JUDICIAL AND MINISTERIAL POWER OF SHERIFFS.

TO treat of the Original or first Institution of Sheriffs in this Nation, is not here necessary, being already done in the tract of the County-Court, the first part of this our subject matter: Therefore we will initiate with the office of Sheriff, in which office he hath *triplicem custodiam*, a three-fold custody, *viz.*

1 *Custos vitæ Reipublicæ*, The Conservator of the life or peace of the Commonwealth.

2 *Custos vitæ Justitiæ*, The preserver of the life of Justice; for no Suit doth commence, and no Process is executed but by him.

3 *Custos vitæ Legis*, The Guardian or Tutor of the life of the Law; for after tedious and long-spun suits, he is to make due execution, which is the very life and spirit of the Law.

Custos vitæ Reipub. His judicial and ministerial authority.

Now as he is *Custos vitæ Reipub.* or *Principalis conservator pacis* within the County, he hath a Judicial authority; in the other two a Ministerial.

1 And first to discover his Judicial Power; and as he is a preserver of the peace, he may (*ex officio*) upon request, command and cause another to find sureties of the peace, and may take the same sureties by Recognizance; for all Obligations that he takes to that end, are as Recognizances in Law. Judicial Power. *Fitz. N.B.* 8. d. & 82. *Term. del ley, tit. vise*

And if he see one man assault another, or if an assault be made upon himself, he may compel them to find sureties of the Peace, and may set them in the Stocks until such time as they do find them. See 5 *H* 7. 6. 44 E. 3. F. *Barr.* 202. 5 *H.* 7. 6.

He may take (of the County where he is sheriff) any number that he shall think convenient (300 if necessity require it) to pursue, apprehend, arrest, and imprison Traytors, Murderers, Robbers, Popish Recusants, and all Felons; to suppress Rebellions, Insurrections, or riotous Assemblies, or such as do break, or go about to break or disturb his Majesties peace: and every man (required) as well Dukes, Earls, Barons, as all other his Majesties Subjects within the same County, ought to aid and assist him; and such as do refuse may be fined to the King; and may attach all persons making such default, to appear and answer before the Justices of Assize. 3 *Ric.* 2. *c.* 4. *Br. Fines* 37. *Offic. Coron.* 3 E. 1.

He may arrest all persons by him suspected, or of evil repute, that shall walk by night or day, committing them to the Gaol, to remain there until they shall be delivered by the Justices of Assize. 5 E 3 *cap.* 14. *Cromp.* 203. *Suspected persons.*

He may arrest all such persons as go or ride offensively armed, and may commit them to prison, there to remain during the Kings pleasure, unless they be delivered by the Justices before whom they shall be convict; he may take their armor to his Majesties use, and prize it by the oaths of those that are present. *Armed persons.* 2 E. 3. *c.* 3. *Cromp.* 203.

If a party after he is arrested make resistance, or shall make an assault upon the Officer, as the Sheriffs Bailiff, *&c.* the Bailiff may justifie the beating of such resister, and such as disturb him in the execution of his precept, and may imprison them in the stocks. 2 E. 4. *fo.* 6. 21 *H.* 7. 39. See *Br.* Trespass 18. and 296. And if the party arrested and resisting be slain, it is justifiable. *Fitz Coron.* 261. *Doctor and Student* 133. 6. *Cromp.* 24. *a* 30. *b.* *Sed quære.* *He may beat such as resist him, and may set them in the stocks* 2 E. 4. 6 21 *H.* 7. 39. *Br.* Trespass 218. & 296.

To enquire of waſt, or to execute a Writ of Reliſſeiſin

By the 11 *H.* 4. 7 *H.* 4. *fo.* 4. *Br. Offic. fo.* 4. 9. 34. 3 and 42. the Sheriff in a Writ to enquire of waſt, and Writ of *Rediſſeiſin*, he is both Judge, and an Officer Record, and cannot delegate his judicial power to any Bailiff of Franchiſe, but muſt enter the Liberty, and execute it himſelf, otherwiſe it is error. And if upon the Writ *Rediſſeiſin*, the Sheriff by Inquiſition find the Diſſeiſee be diſſeiſed again, he may preſently take ſuch Diſſeiſor and commit him to priſon, there to remain during his Majeſties pleaſure. See *Co. 6. fo.* 12. And in the Writ to enquire of waſt, and in the Writ of *Rediſſeiſin*, whereby he is made Judge of the cauſe, he muſt execute the ſame in proper perſon, and not by his Under ſheriff, or other Deputy whatever. Stat. *Mert.* 3. 39 *H.* 6. 42. 29 *Aſſ. pla.*

H. may commit a diſſeiſor to priſon, &c. Co. 6. fo. 12 *Dalton office of Sher. fo.* 18

See more of his abſolute authority in the Sheriffs turn (and alſo in the County court) and what things are inquirable there, and by him to be puniſhed.

His Miniſterial power.

Let us now deſcend to his *miniſterial power* or authority, which is diſſected into two parts, *viz.* as he is *Cuſtos vitæ juſtitiæ, & cuſtos vitæ legis.*

Cuſtos vitæ juſtitiæ.

2 *Cuſtos vitæ juſtitiæ.* For no ſuit is commenced, nor proceſs executed, but by him.

And firſt to demonſtrate his initiation into this Miniſterial part of his office, *viz.*

Crom. 203.

The new Sheriff being elected and ſworn, at or before the County next ſucceeding his Election, he is to deliver a Writ of diſcharge to the old Sheriff, who thereupon is to ſet over all his priſoners that are then in the Gaol ſeverally by their names, together with all his Writs, preciſely by view and Indenture made betwixt the two Sheriffs, wherein muſt be comprehended, and expreſly ſpecified all the actions which the preceding Sheriff hath againſt every Priſoner: and till delivery of the priſoners to the new Sheriff, they remain ſtill in the cuſtody of the old; as you may ſee in that learned argument more at large in *Weſtbies* Caſe, *Co.* 3. 72. Neither is the new Sheriff obliged to receive the priſoners but at the Gaol only, and upon the return and delivery of the Writs contained in the Indenture, if they were executed by the old Sheriff, the new Sheriff muſt indorſe them in this manner.

Co. 4. 72. A

Co. 3. 72. Weſtbies caſe.

I send you this Writ as it is indorsed, delivered to me by A B *Esquire, late Sheriff my next Predecessor, in his going forth from his Office.*

The Indorsement of such Writs as are turned over to the new Sheriff by the old Sheriff

E F *Esq; Sheriff.*

Yet the old Sheriff (by the Statute of 12 *E.* 4. *c.* 1. and 17 *E.* 4 6.) till the Writ of discharge be delivered to him, he may execute his office. *Stat.* 12 *E.* 4. *c.* 1. *&* 17 *E.* 4. 6.

If a Sheriff die, or be removed before the usual time, no process shall be directed to the Coroner, but the execution thereof shall stay until a new Sheriff be elected and sworn: But upon suggestion, that the Sheriff is of Kin to either party, process shall go to the Coroner. *Stat.* 12 *E.* 4. *cap.* 1. 22 *H.* 6. 51. 13 *E.* 4. *cap.* 6.

If the old Sheriff hath in his custody divers persons in execution, and dieth, afterward a new Sheriff is elected, it behoves the new Sheriff to take notice at his peril of all the Executions which are against any person that he finds in the Gaol; and this is (*necessitatis gratia*) for necessities sake, for there is none to make delivery of them, or to give him notice who are in execution, and who not. And it is no detriment to the Sheriff if he keep them safe until he hath perfect knowledge of all the Executions; for if he may with impunity suffer such as are in execution to escape, great inconvenience would thereupon ensue. *Co. E.* 3. 73. *b.* 1. *Westbies* case.

The new Sheriff is to take notice who are in execution. *Co.* 3. 72. *b.* Westbies *case.*

He is to preserve the rights of the King within his County, and to enquire what Lands are concealed from him, or withholden, and to seize to his use the profit of such Lands as come to him by Attainder, or Escheat; and likewise the goods of any Felon, Fugitive, Out-law, Egyptian, goods received, and goods confiscate, and wreck of the Sea.

He is to preserve the Kings right, &c. 21 *H.* 7. 7. *a* Staml. Perk. 5, 6,

He ought to be vigilant that the suits of his Majestie be done in his Majesties Court, *viz.*

1 Suit-Real, or Royal.
2 Suit-ſervice.

Suit-Royal, what? 1 And to declare what ſuit-Royal is, it is a ſuit due to the ſheriffs turn, or Leet, which is ſo termed becauſe of their allegiance.

Suit-ſervice, what? 2 Suit-ſervice is due alſo to the ſheriffs turn or Leet by reaſon of the tenure of a mans Land.

He muſt levy his Majeſties debts, &c. 52 *H.* 3. *c.* 15. *Fitz.* 173. *Br. Diſt.* 35. 32. 40. & 72. *ſtat.* 51 *H.* 3.

He ſhall levy his Majeſties debts by diſtreſs, either in the high-way, or common ſtreet. 52 *H.* 3. *cap.* 15. *Fitz.* 173. And if he can find no goods elſewhere, he may diſtrain in the Church, *Brook. Diſtreſs* 35 and may ſell ſuch Diſtreſs after fifteen daies. See *Brook Diſtreſs* 32. 40. & 72. and *ſtat.* 51. *H.* 3.

Iſſues. Dalt. office of ſher. fo. 25. *b.*

He is accountable to his Majeſty for all manner of Iſſues and profits of the County; and by his Office (upon proceſs out of the Exchequer) he is to gather up, and to bring into the Exchequer ſuch iſſues and profits, *&c.* And likewiſe ſuch iſſues loſt and returned in reſpect of non-appearance of the Defendants, or of Jurors, ſhall be forfeited to his Majeſty, and ſhall be levied by the ſheriff. See *Dalton. fo.* 25. *b.*

Amerciaments. Mag. char. 14. *Weſtm.* 1. *c.* 18.

He is alſo accountable to the King for, and upon proceſs, *&c.* and is to gather up, and to bring into the Kings Exchequer, all amerciaments and fines which ſhall be ſet or aſſeſſed (as a penalty) upon the heads of offenders againſt the King, in any of his Courts; which is to be underſtood of amerciaments upon the Plaintiff or Demandant, or upon the Tenant or Defendant in actions real or perſonal, as if the Plaintiff and Demandant be Non-ſuit, or if judgment be given againſt the Tenant or Defendant, or upon the Plaintiff, *quia non eſt proſecutus*, or *pro falſo clamore*, *&c.* or upon the Mainpernors, becauſe the principal appears not, *&c.* In ſuch caſe the Juſtices never aſſeſs any amerciament; but by the ſtat. of *Magna Charta*, *cap.* 14. and *Weſtminſter* 1. *cap.* 18. the amerciament ought to be aſſeſſed *per pares*: And the Court in ſuch caſes enters, *Ideo in miſericordia*, general, without taxing or aſſeſſing any ſum in certain: And when the Clerk of the Warrants in the common place makes Eſ-

ſtreats

streats of these amerciaments, and delivers them to the Clerk of the Assizes within every circuit, to deliver unto the Coroners in every County to assess the amerciaments. *Dal. fo. 27. a.*

His Majesty shall have all amerciaments, fines, issues, and all forfeitures or Recognizances lost or forfeited, *&c.* before any of his Judges or Justices in any of their Courts or Sessions; but these must first be estreated into the Exchequer, and from thence process must be awarded to the sheriff to levy the same to the Kings use. 33 *H.* 8. *c.* 39.

Recognizance, Fines, Amerciaments, &c. 33 *H.* 8. *c.* 39.

The sheriff ought not to take or seize the goods of any man arrested, imprisoned, or indicted for felony, or for suspition thereof, before the same person be duly convicted or attainted of the same felony, (*viz.* either by tryal, confession, or Utlary and Judgment thereupon given) or that the same goods be otherwise lawfully forfeited, upon pain to forfeit the double value of those goods so taken to the party grieved.

He is to seize no goods of Felons, &c. till they be lawfully forfeited.

By the statute 1 *R.* 3. *c.* 3. Yet lest the goods should be disorderly wasted, or sold away, the sheriff (before the attainder of the Felon) may take sureties that the goods be not imbezelled, *&c.* and for want of sureties, the sheriff, or other his Officers, may seize them, and deliver them to the Town, by them safely to be kept. *Brook. tit. forfeit.* 44. *Plow.* 68. But yet the Felon must have reasonable maintenance for himself and his Family until he be convict, and the remainder shall be to his Majesty, *&c.*

1 *R* 3 *c.* 3. *But take sureties he may, that the goods shall not be imbezelled, &c.* Br. *tit. forfeit.* 44.

If the Felon flie, the sheriff is to seize all his goods and chattels, as also the profits of his Lands to his Majesties use. But yet by *Coo.* 5. 109. *Plo.* 262. the goods, *&c.* of a Fugitive are not forfeited until the flying for Felony be lawfully found upon Record, either before the Coroner upon an Indictment, *super visum corporis*, in case of the death of a man, or by verdict upon his acquittal (for although he be found not guilty upon his Tryal, yet shall he forfeit his goods for his flying; *quia fatetur facinus, qui judicium fugit*, and the Law will admit no reproof against this presumption:) And albeit the Jury which tryes him shall finde

Plow. 68. *He that flies for felony forfeits his goods, chattels, and the profits of his lands, &c. Coo.* 5. 109. *Plo.* 262.

Fitz. Forf. 92. &c. Coron. 296. & 344.

him not guilty, and further, that he did not flye, yet the goods are forfeit by force of the finding of his flying before the Coroner; and the Sheriff presently after such flying found before the Coroner, is to seize the goods, and the profits of the Lands of such Offenders. See *Fitz. Forf.* 32. Yet he that shall flie for felony shall not forfeit the goods or profits of his Lands which he had at the time of the Felony or flying, but those only which he had at the time of the Indictment or acquittal. *Co.* 5.109. *Fitz. Coron.* 296. *&* 344.

Felo de se. Utlaws goods for felony. Co. 5.110. b.

The Sheriff is to seize to the use of the King the goods and chattels of him that killeth himself, but he shall not forfeit his Lands: Yet if an Infant, a man *Non compos mentis*, or a Lunatick killeth himself, he forfeits nothing.

Must receive all Writs, and execute them, &c. 2 E. 3. c. 6. Crom. 203.

If a man be indicted for Felony, and absents himself so long as an *Exigent* is awarded against him, that shall be accounted a flying in Law, for which he shall forfeit all his goods, although he shall be acquitted afterwards of the Felony; and the Sheriff may presently *ex officio* seize them to the Kings use. *Co.* 5. 110. *b. Stamf.* 184.

He may command his Bailiff to execute them either by word or precept, &c. Lamb. 91. 21 H. 7. 23. a.

The Sheriff, or his Under-sheriff, shall receive all manner of Writs at all times, and in any place within the Shire, without taking of any thing, and shall make Warrants thereupon, 2 *Ed.* 3. *cap* 5. *Cromp.* 203. and shall be by him or his Bailiffs executed.

He may command his Under-sheriff, Bailiff, or other known Officer to execute them, either by word or precept: But if his mandate be to a man (that is no known Officer) to execute any Writ or Warrant, he must either deliver the Writ it self, or a precept in writing in his own name, and under the Seal of his Office, otherwise an action of false imprisonment will lie for the arrest. *Lamb.* 91. 21 *H.* 7. 23. *a.* But if a precept be made to a Bailiff, and to a stranger or special Bailiff, (*Conjunctim & divisim*) and is executed by the stranger only, it is good. *Lamb.* 91. and *Daltons* office of *Sheriffs* 44.

He must not dispute the authority of the Judges, &c. that send Writs to him, but must execute them. Co 6. 54. 9. 68 & 10. 70. Dr. & St. 150.

If a Writ issue out from the Judges, Justices, or the Court, he shall not stand capitulating or disputing their authority, or validity of the Writ; but ought to execute it. *Co.* 6. 54. 9. 68. & 10. 70. *Dr. and Student* 150. For he is obliged both by oath and office to execute all process of Law; and if a *Capias* be delivered to him without an Original

riginal, he shall execute it, and is excusable in an action of false imprisonment; for he being the Officer and Minister of the Court, it is reasons adversary to punish him for executing the Mandates of the Court, according to the *Maxime*, Co. 13. 70. *Quicunque jussu judicis aliquid fecerit, non videtur ex dolo vel malo fecisse, quia parere necesse est*: He that acts any thing by the mandate of the Judg, seemeth that he acted not any thing fraudulently, or amiss. because he must needs obey: But if the Court declare it self beyond its jurisdiction, in that case all the proceeds are *Coram non judice*, and there an action doth lie against the Sheriff without any regard to the precept or process, for when he hath no jurisdiction, he is no Judge, and there is no necessity to obey him, no more then a meer stranger: and to back it with the authority of a rule or axiome; *Extra territorium jus dicenti, non paretur impune*. He that obeyeth in prescribing Laws beyond his jurisdiction, shall not escape unpunished. *Co. ibidem fo.* 57. *a.* & *b.*

Co. 10. 77.

A Bailiff need not shew his precept when he cometh to execute it upon any man: Yet upon the arrest he ought to declare the contents of it. But if a Bailiff be specially deputed, or one that is not a known Officer, he must shew the Warrant to the party, *Co.* 9. 69. 21 *H.* 7. 23; and 37. Yet the special Bailiff is not obliged to shew it without demand. 8 *E.* 4. 14. 14 *H.* 7. 9. *Co. ibidem.*

A Bailiff need not shew his precept when he executes it; but a special Bailiff must shew the Warrant, &c.

Co. 9. 69. 21 *H.* 7. 23 & 37.

If a Bailiff by virtue of a precept from the old sheriff after his discharge shall arrest a man, this arrest is tortious, and an action of false imprisonment lyeth both against the sheriff and the Officer. *Cromp.* 205. *b.*

An arrest by an old Sheriff after his discharge tortious.

Notwithstanding the ground or maxime of Law, that *Dies dominicus non est juridicus*, and that no judicial act ought to be done on that day; yet ministerial acts, as to arrest and execute process, are tollerated and allowed; for an Officer ought to execute his office whensoever he can find the party, otherwise peradventure they shall never be executed; and God forbid that things necessary should not be done on that day; for *bonum est bene facere Die Sabbathi*.

If process may be executed upon the Sabbath day. Co. 9. 66.

In all cases where the Process concerns the King, the

He may break open a door to execute Process concerning his Majesty, but not in case of a common person. Co. l. 5. 92. b. in Seymans *case.*

sheriff, or other Officer (upon refusal after demand to open the door) may break open the door of the house, or use other means to get in to do execution: But in case of a common person, the Law doth not permit the sheriff, &c. upon request made, and denial, to break into the house of the Defendant to execute any process at the suit of any subject, for the great inconvenience that might ensue thereupon; because if men as well in the night as the day, should have their houses (which in *re vera* are their Castles and fortresses) broken open, upon pretence thereof, it would incur great mischief and damage; for by colour thereof, upon any feigned suit, the house of any man at any time might be broken open, when the Defendant might be arrested elsewhere, and so men should not be in safety and repose in their own houses. And although the sheriff be an Officer of great authority and confidence, yet it appears by daily experience, that his Majesties Writs are served and executed many times by Bailiffs, who are generally persons of little or no value or credit; and therefore not to be trusted with the breaking open and ransacking of houses upon every slight occasion. See Co. 11. 82. *a. Lewis Bowles* Case.

Co. 11. 82. a. Lewes Bowles case.

Proclamation to be made four times a year. stat. Winchester.

He ought (*in propria persona*) four times a year to proclaim the statute of *Winchester* within every Hundred of his Bailiwick, and in all Fairs and Markets by his Bailiffs. 7 *R.* 2. *cap.* 6. 13 E. 1. *cap.* 1. 28 E. 1. *cap.* 17.

Statute against unlawful games.

The statute provided against unlawful games, is likewise to be proclaimed four times in the year in every Market and Fair within the County. 33 *H.* 8 *cap.* 9.

3 Custos vitæ legis.

We will now handle the other ministerial part of his office; and that, as he is *Custos vitæ legis*, which extends to his doing execution (after a tedious and long-spun suit) which is the very life and spirit of the Law. And this is divided into several branches, or kinds of execution, *viz.*

Statute-Merchant.
Statute-Staple.
Recognizance.
Elegit.

Capias

Capias ad ſatisfaciendum.
Fieri facias, &c.
Levari facias.

Of the laſt four executions, two are by the Common Law, *viz.* 1 *Fieri facias.* 2 And *Levari facias*; and two by the ſtatute, *viz.* 1 *Elegit.* And 2 *Capias ad ſatisfaciendum.* 22 Aſſize 47. And note, that execution by the ſtatute doth not ouſt execution by the Common Law, no more then the execution by one ſtatute ouſts the execution by another. 22 *Aſſ.* 47.

We are determined to inſiſt upon all the ſeven, in diſcovering their natures, manner of executing them, *&c.*

And firſt of the *Statute-Merchant.*

Statute-Merchant.

IT is defined by *VVeſt. part.* 1. *Symb. L.* 2. *Sect.* 151. to be a Bond or Obligation of Record acknowledged before one of the Clerks of the *Statutes-Merchant*, and Mayor, and chief Warden of the City of *London*, *York*, *&c.* or before the Bailiffs of any Borough, or other ſufficient men for that purpoſe appointed, ſealed with the ſeal of the Debtor or Recognizor, and of the King; which conſiſts of two parts, the greater is kept by the ſaid Major or chief Warden, *&c.* and the leſſer part thereof by the ſaid Clerks. The form of which you may ſee in *Fleta*, *lib.* 2. *cap.* 64. &c. *Fleta*, *l.* 2. *c.* 64. &c.

And if the debt be not paid at the day, the proceeds upon it, to have the fruits and effects thereof, is not like to the proceeding in other caſes or ſuits upon Obligations, *&c.* to reduce them to judgment; but as they are in their own nature much like to the nature of a Judgment, ſo is the proceeding and execution thereupon, much like to the proceeding and execution upon a Judgment: And therefore the Conuſee may bring an action of debt upon a ſtatute, or he may

may as ſoon as the ſame is forfeited, have a preſent execution of it after this manner.

How to ſue out an Execution upon a Statute-Merchant.

He muſt bring his Statute to the Mayor and Clerk, or other Officer before whom it was acknowledged; and there if they find the Record of it, and the day to be paſt for the payment of the money, they are to apprehend and impriſon the body of the Conuſor, if he be a Lay perſon, and can be found within their juriſdiction; and if he cannot be found there, they are to certifie the Record into the *Chancery*, which alſo if they refuſe to do, they may be compelled unto by a *Certiorare*: And if that Certificate be faulty, or Execution be not done upon it, by reaſon of the death of the Conuſee, or otherwiſe; the Conuſee, or his Executor, or Adminiſtrator, may have another Certificate; and thereupon he ſhall have a Writ of *Capias* out of the *Chancery* directed to the Sheriff of the County where the Conuſor lives, to apprehend and impriſon him (if he be not a Clergy-man) and this is to be returned into the *Common Pleas* or *Kings Bench*: And when the Conuſor is taken, he ſhall have time for a quarter of a year to make his agreement with the Conuſee, and to ſell his lands or goods to ſatisfie the Conuſee: And for that purpoſe he may ſell his lands or goods, although he be in priſon, and his ſale is good and lawful: And if in that time he do not ſatisfie the Conuſee, or if upon the *Capias* the Sheriff return a *Non eſt inventus*; then by a Writ (or by divers Writs, if the Lands or goods lie in divers Counties) called an *Extendi facias*, then all his Lands and goods ſhall be delivered (by the Sheriff) to the Creditors upon a reaſonable extent, to hold until the debt be paid: And if the Jurors or Appraiſers upon the *Extendi facias*, overvalue the Lands or goods in favour to the Debtor, the Conuſee hath no remedy, but by motion in that Court where the Writ is returnable, at the return-day, or at leaſt the ſame Term wherein the Writ is returnable, to deſire that the Appraiſers may take the Lands or goods at the rate they have valued them, in the ſame manner as the Conuſee is to have them. But if the Conuſee accept of the Lands and goods from the Sheriff, or ſuffer the Term to paſs, wherein the Writ is returnable, he is too late, and hath no remedy at all. And if the Appraiſers do undervalue the Lands or goods in favour to the Debtee, it ſeems the

Certioiare

Capias.

Extendi facias, what.

the Conusor hath no remedy at all, for he may at any time pay all or the residue of the debt and damages unlevied, and have his Lands again if he please: Yet nevertheless the body of the Debtor shall remain in prison until the debt be paid; and if there be Sureties, they shall receive no damage, so long as the debt may be fully levied of the goods of the Debtor.

Note, that upon the Statute-Merchant, or Staple, all the Fee-simple Lands which the Conusor had at the time of the said Statute acknowledged, or at any time after, shall be liable to the said Statute, to whomsoever they be afterwards sold, by alienation, feoffment, or otherwise. *Stat. de Mercator.* 13 *E.* 1. 27. *c.* 9. *&* 23 *H.* 8. *Co.* 3. 12. But if the Debtor die, the body of his heir shall not be taken, but his Lands in fee that descend to him by the Conusor, shall be taken (as aforesaid) if he be of full age, or when he shall attain full age, until the said debt be levied. *Stat. ibid.* Copy-hold Lands are not liable, nor shall be extended; not Lease for term of life: But Lease for term of years, and all the goods and chattels of the Conusor or Debtor are liable, and shall be extended, which the Conusor hath in his own possession, and to his use, at the time of the Execution sued or awarded. But goods demised, pawned, or pledged, may not be taken in Execution for his debt, that demised or pledged them, during the time or term that they were demised or pledged. 22 *E.* 4. *fo.* 10 34 *H.* 8 *Br. Pledg.* 28. also goods distrained for rent, a mercament, damage feasant, *&c.* and are impounded, *in custodia legis*, during the time that they are so, may not be taken in Execution. See *Br. Pledg.* 28.

Note. *All the fee-simple lands of the Conusor at the time of the Statute acknowledged, shall be liable to the said Statute.* Stat. de Mercatore. 13 *E.* 1. 27. *c.* 9. 23 *H.* 8. Co. 3. 12. *Copy hold Lands not lyable; nor Lease for term of life; but Lease for term of years, &c. shall be extended, Goods demised, pawned, or pledged, may not be taken.* 22 E. 4. fo. 10. 34 H. 8. Br. Pledg. 28. *Nor goods distrained for Rent, &c. may not be taken.*

If the Conusor of a Statute-Merchant, or Staple, *&c.* be taken, and die in execution, yet the Conusee shall have execution of his lands and goods. Co. 5. 86, 87. *Fitz.* 246. *b.* or if the Conusor be taken in execution, and escape, yet his goods and lands shall be taken and extended upon by

If the Conusor die in execution, the Conusee may have execution of his lands and goods. Co. 5. 86. & 87. Fitz 246. b. *Or if the Conusor escape, his goods and lands shall be extended.*

the

the ſaid ſtatute; for the eſcape, and the action that the Plaintiff had againſt the ſheriff for the eſcape, is no ſatisfaction of the debt.

A Non eſt inventus return'd upon the 1. Certificate, a. 2. not grantable, yet, &c. 28 *E.* 3. 91. *Execution* 93.

Certificate of a ſtatute-merchant was ſued forth, and execution ſued in the ſame County: the ſheriff returned *Non eſt inventus*, for which the Plaintiff ſued another Certificate to the Major, by reaſon of which the party was taken; and it was holden that the ſecond Certificate was grantable, yet the party taken would not be ſet at liberty by 28 *E.* 3. 91. *Execution* 93.

Several certificates in divers Courts upon one ſtatute, execution ſued in the one ſhall not ſtay that in the other. 29 *Aſſ.* 29. 29 *Aſſ.* 41.

Where there are ſeveral certificates in divers Courts upon one ſtatute, execution ſued in the one ſhall not ſtay that in the other, becauſe they are intended ſeveral ſtatutes; but it ſeems he may ſue to the Major to certifie if there be another ſtatute or not, and ſo be helped. 29 *Aſſ.* 29. And becauſe where a certificate is ſued in the *Common-Pleas* and the ſame Plaintiff ſues another in the *Kings Bench*, and the Juſtices were certified by the Major, that all was but one ſtatute, the parties cauſed the Record to come out of the *Common-Pleas* into the *Kings-Bench*, and then a *Capias* ſhall iſſue out againſt the Conuſor; and yet one Conuſor was taken before in the *Common-Pleas*, but it appeared that he afterward eſcaped. 29 *Aſſ.* 41.

A ſtatute certified for the Teſtator, ſhall be certified for the Executor. FNB. 132. FNB. 244.

A ſtatute which was certified for the Teſtator, ſhall be a ſpecial Writ be certified for the Executor, *F. N. B.* 132. ſo where it is not ſufficiently certified before, ſo where the party keeps it in his hands, ſo where the firſt certificate is loſt; and if the Major will not certifie it, a *Certiorari* ſhall be directed unto him. *F.N.B.* 244.

The Major, &c. hath power to hold pleas of things done in the ſtaple.

The Major of the ſtaple hath power to hold pleas of things done in the ſtaple, and upon a ſtatute acknowledged before him execution may be ſued, or in the Chancery at the pleaſure of the party. 9 *H.* 6. *Juriſdiction* 6.

Upon a ſtatute-merchant, a *Capias* iſſued out of the Chancery returnable in the Common Pleas, the ſheriff did return *Non eſt inventus:* Now *Capias & extendi facias* ſhall not iſſue out of the Common Pleas without ſhewing the ſtatute to the Juſtices, although he had ſhewed the ſame in the Chancery before: and if the ſheriff hath returned *Cepi corpus*, and hath the body here, if he do not ſhew the ſtatute, the party ſhall be diſcharged although it be loſt; but upon a ſtature ſtaple he muſt ſhew the ſame upon the *Capias* awarded, but not afterwards, becauſe in the ſame place. 37 *H.* 6. 6 & 7.

Non eſt inventus returned upon a Capias & extendi facias *ſhall not iſſue out there, without ſhewing the ſtatute to the Juſtices*, &c. 37 H. 6. 6 & 7.

It was holden, that if a ſtature be certified, the Plaintiff ſhall have execution without ſhewing of it; but if he doth not ſhew it at the day of the return, the other ſhall be at large, although he have execution of the body of one or of all the Defendants. 26 *H.* 6. *Execution* 6. See the ſtat. of 5 *H.* 4. *cap.* 12.

Vavaſor ſaid, that he ſaw where the Recogniſee died, and a ſtranger came in his own name, and ſhewed the ſtatute, and had execution, although the other came not in proper perſon: and upon a ſtatute made to two, if one come with it, he ſhall have execution in both their names; and it is a common courſe, that every ſtranger who comes with the ſtatute, ſhall have execution upon it in the name of the Recogniſee. 12 E. 4. 10. & 11. *Execution* 14.

Statute must be ſhewed at the day of the return, &c. 26 H. 6. Ex. 6. A ſtranger may have execution where the Recogniſee is dead. Or a ſtature be made to two, yet one may have execution, &c. 12 E 4 10. & 11. Ex. 14.

And upon *Non eſt inventus* returned upon the certificate where the Plaintiff died, his Executors ſhewed the ſtature, and had execution of it. 17 E. 3 31. But ſee 18 E 3. 10. he ſhall not have it without a *Scire facias*; *vide* E. *liz. Dyer*, &c. Conuſee of a ſtatute-merchant had it certified in the Chancery, and thereupon had a *Capias* upon it and died; upon the ſhewing of the ſtatute his Executors had a *Scire facias*.

Executors muſt ſue out a Scire facias before they can have execution, &c. 17 E. 3. 31. 18 E 3 10

The

Execution upon the ſtatute ſued into divers Counties, upon Nihil *returned in one County, he ſhall have execution of the whole in the other*, &c. 16 E. Exec. 49. 4 E. 3.

The opinion was, that if a man ſue execution of a tute-Merchant in divers Counties, in each proportion viz. 20 l. in one, and 20 l. in the other County; yet *Nihil* returned in one County, he ſhall have execution the whole in the other, if he hath Aſſets there. 16 E. *Execution* 49: And a man may well pray execution of body in one County, and an *Elegit* of the Land in the ther County. *Execution* 38.

Statute ſued of parcel of the lands in the name of all, ſhall never extend the reſt.

If a Statute-Merchant be ſued of parcel of the La of the Conuſor, in the name of all his lands, he ſh never extend on the reſt of the lands. *Mic.* 22. E. 3. f. 1

Three bound to one in a Statute ſeverally, execution may be againſt one, or all.

If three are bound to one in a Srature-Merchant, every one of them by themſelves, *quamlibet eorum* I may ſue execution againſt one of them only, or ag them all at my pleaſure.

Infant bound in a ſtatute may avoid it during his Minor. &c. *The like by* dures impriſonm.

If an Infant bind himſelf in a Statute-Merchant, or tute-ſtaple, he may avoid this during his Non-age by *dita Querela*, to avoid this ſtatute by matter of *fait*; the like Law if the ſtatute be acknowledged by *dure impriſonment*. See *Anderſons Reports*, *lib.* 2. *fo.* 185.

Statute-Staple.

WE now come to the laying open a *Statute-ſtaple*, wh is duplicate, to uſe the words of M. *Weſt*, *viz.* either

Proper. 1 Properly ſo called; or

Improper. 2 Improperly.

1 A *Statute ſtaple* properly ſo called, is an Obligation acknowledged before the major of the ſtaple, in the preſence of one or two Conſtables of the ſame ſtaple: And by vertue of ſuch Statute-ſtaple, the Creditor or Recogniſee may forthwith have execution of the body, lands and goods of the Debtor or Recogniſor: and this is found- ed upon the ſtatute of 27 E. 3. c. 9. *Statute-ſtaple proper, what.* 27 E. 3 c 9

2 A *Statute-ſtaple* improper, is an Obligation of Record grounded upon the ſtat. of 23 *H.* 8. c. 6. of the nature and validity of a *proper Statute ſtaple*, as touching the form and execution thereof, and acknowledged before one of the chief Juſtices, and in their abſence before the Major of the ſtaple at *Weſtminſter*, and Recorder of *London*. (You have the forms of all theſe obligations or ſtatutes in *Weſt. part.* 1. *Symb. L.* 2. *Sect.* 152, 153, 154, 155.) It is ſealed with three ſeals, *viz* with the ſeal of the Conuſor, with the ſeal of the King, and of one of the ſaid Juſtices, or of the Major and Recorder, 23 *H.* 8. c. 6. And note, that all Statutes ſtaple and Merchant ſhall be brought to the Clerk of the Recognizance within four moneths, and inrolled within ſix moneths; otherwiſe ſuch ſtatute ſhall be void againſt Purchaſors, *&c.* 27 *Eliz.* c. 4. *Statute-ſtaple improper.* *Weſt. Symb.* 1. *L.* 2. *ſect.* 152, 153, 154, 155. *Note.* 27 E. ca. 4.

The manner of the proceeds upon it are the ſame with the *Statute-Merchant*, ſaving that in a *Statute-ſtaple*, preſently after the Certificate into the *Chancery*, the Conuſee ſhall have a Writ to take his body, and extend his lands and goods returnable in *Chancery*; and this Writ is a Commiſſion directed to the Sheriff of the County where the lands and goods lie, for the valuing of the ſame, whereby all the lands, goods and chattels of the Conuſor ſhall be appriſed and valued at a reaſonable rate by a Jury of men ſworn, charged by the ſheriff for that purpoſe; which Inquiſition ſo taken is to be returned by the ſheriff; and thereupon the lands, goods and chattels are to be taken into the ſheriffs hands, and by him to be delivered to the Conuſee (which the ſheriff may do if he will without any Writ) to hold unto the Conuſee, until he be ſatisfied his debt and damages: And if the ſheriff refuſe ſo to do, the Conuſee ſhall have a Writ out of the *Chancery* called a *Liberate*, to compel him to deliver to the Conuſee the lands, goods and chattels ſo found by Inquiſition, and taken *The manner of proceeding upon a Statute-ſtaple* *Liberate.*

ken into his hands upon the extent which the ſheriff ne not return. *Fitz. Accompt* 97. *Execution in toto. Broo. ſt in toto. Stat. Action Burnel de Mercat.* 27 E. 3. 9. F N 130, 131, 132. *Dyer* 180. *Coo.* 4. 67 *Plow.* 61. 62. 82. *ſuper Lit* 290. *Coo.* 5 87. *&c.* See more of the proce ing in *Statute-Merchant*.

Note. It was adjudged in *B. R. Hil.* 42. *Eliz.* that a debt covered in the Kings Court by Judgment, ſhall be paid fore a Bond in nature of a Statute-ſtaple or Merchant; cauſe the judgment is a matter of a more high and wort nature then *private portable pocket-Records:* Alſo it ſh be preferred before a Recognizance acknowledged in a Court by aſſent, which may alſo be privately done; and judgment ſo given in the Kings Court, upon ordinary a judicial proceedings, which remain in the cuſtody of ſworn Officer, are Records which are preferred in La before ſuch ſtatutes; *& non refert*, whether the judgme or Recognizance, or ſtatute be firſt; for be the judgme firſt or laſt, it ſhall be firſt ſatisfied, *&c.* And ſo it w holden *per totam curiam* in the Common Pleas in *Pembe ton* and *Bartams* caſe. *Plow.* 32. *El. Rot.* 235. which ſe in the end of *Sadlers* caſe in the fourth Report. D 80. 53.

Co. L. 6. 45. *C.* 2. *in* Higgons *caſe.*

Pemberton *&* Bartams *caſe.* Plow 32. El. Rot. 235.

Recognizance, what it is.

WE now come to the third, which is *Recognizance*; a that is an Obligation or Bond of Record, acknowled ed in a Court of Record, teſtifying the Recognizor owe to the Recognizee a certain ſum of money, and acknowledged in ſome Court of Record, or before ſom Judge, or other Officer of ſuch Court having authority take the ſame; as the Maſter of the Chancery, the Judg of either Bench of the Exchequer, Juſtices of Peace, &c. And thoſe that be meer Recognizances, are not ſeale but inrolled; and yet ſome are ſealed with the ſeal of th party, and may be with condition annexed, or may be ſin gle, and then to have Indentures of defeaſance.

If the money be not paid at the day, the Conuſee pro ceed

ceds upon it after this manner: The Conusee, his Exe- *The manner of proceeding upon a Recognizance*
utor or Administrator, is to bring a *Scire facias* against the Conusor; or if he be dead, against his heirs, when they be of full age; or if the Lands the Conusor had at the time of the entring into the Recognizance be sold, against the Purchasers of those Lands, which the Conusor had at any time after the Recognizance entred into, to warn them to come into that Court whence the *Scire facias* cometh, and to shew cause why execution should not be done upon the said Recognizance: And if the party or parties cannot be found to be warned, or being warned do not appear at the time; or appearing, shew no cause why the debt should not be levied, then the Conusee shall have execution of a moity of his Lands by *Elegit*; or if the Conusor be living, of all his goods by *Levari* or *Fieri facias* at his election; but he cannot have execution of his body, unless he bring an action of debt upon the Recognizance, or it be by course of the Court, as it is in the Kings Bench upon a Bail, in which case a *Capias* doth lie. *Dyer* 360. 315. *West.* 2. 18. *Broo. Execution* 159. *Co.* 3. 11. 15 *H.* 7. 16. *Kitch.* 117. And the proceeds against sureties in statutes shall be as the proceeding against the principal; but in case where there are moveables of the principal to satisfie the debt, the Sureties (as it seems) shall not be charged. *Stat. de Mercatoribus.*

Elegit. Levari facias. Fieri facias. Capias. Proceedings against the sureties.

Execution by vertue or force of a Recognizance shall be of all the goods and chattels of the Reconusor (except the Beasts of the Plough, and implements of Husbandry) and of the moity of his Lands. *West.* 103.

Execution of all the goods and chattels, and a moity of the Lands.

The Recognisee by the first Writ shall not have execution but of the Land which the Reconusor had at the time of the Reconusance, or since; and upon return that he had no Land, then he shall have a Writ to try who had it at the time, &c. or after, &c. 36 E. 3. *Execution* 47. 19 E. 3. 1.

Execution of the Land which the Recognisor had at the time of the Recognizance, &c.

Two sued in execution, the money deliver'd to the Attorney of the one, and to the other himself, good, &c.

Where two sued execution, the money was delivered to one, and the Attorney of the other, *Mich.* 14 E. 3. *Execution* 76. and the Defendant in Court did pay the money to one, the other being absent; and it was good and the Recognizance was withdrawn. *Mich.* 22 E. 3. 15. *Execution* 87.

The Heir charged, &c.

The Heir shall be charged in debt of the Lands which he had by descent, the day of the Writ brought, and not the day of judgment. *Mich.* 18 E. 2. *Execution* 241.

Execution upon stat. and finds bail, and doth not appear at the day, &c.

If a man be in execution upon a statute, and finds bail and doth not appear at the day, but at another day the bail brings him in: now it is in the election of the Plaintiff to take execution of his body and Land, or to take the bail. See 59 E. 3. *Execution* 43.

Two sue execution, and one dies before the extent, yet the lands shall be extended. 11 *R.* 2. *Brief.* 938. *Otherwise upon a Stat. Merch.*

If two sue execution, and before the Extent one dieth, the sheriff shall extend the Land, and shall deliver the same to the other. 11 *R.* 2. *Briefe* 938. But if two sue execution of a Statute Merchant, and the Reconusor is returned dead, and then one of the Conusees doth acknowledge the death of his companion, he shall not have execution without suing a Writ out of Chancery. 25 E. 3. *Execution* 92.

3 Bound in a stat. jointly and severally, he shall have exec. against one, or all, but not against two, &c.

Where three are bound in a statute jointly and severally, the Plaintiff shall have execution against one, or all of them at his election, and not against two; and so of an Obligation. But if he bring debt against them all upon a joynt Bond, the execution shall be against all; but if he bring it by several *Præcipe's*, he shall not have execution but against one. 34 E. 3. *Execution* 129. 14 *H.* 4. 19 E. 3. *Execution* 29.

Note further, that a Recognizance, though in the speciall signification it doth but acknowledge a certain debt, and is executed upon all the goods, and half the Lands of the Recognizor: yet by extention it is drawn also to the Bonds or Obligations, commonly called *Statute-Merchant*, and *Statute staple*; as appeareth by the *Register of Original Writs*, *fol.* 146. 151. & 152. *Note.*

Elegit, what.

4 E *Legit* is a Judicial Writ by the statute, and lieth for him that hath recovered debt or damages against one not able in his goods to satisfie; and directed to the sheriff, commanding him that he make delivery of half the parties Lands or Tenements, and all his goods and chattels (Beasts for the Plow excepted) *Old N. B fol.* 152. *Register of Original Writs*, *fol.* 299. & 301. and the Table of the Register judicial, which expresseth diversuses of this Writ.

In *Elegit*, by force of the statute of *Westminster* 2. *cap.* 18 the Sheriff may take in execution the moity of the Lands of the Conusor, and all his goods and chattels (except as before) and may deliver them unto the Conusee upon a reasonable price or extent until the debt be satisfied: But the valuation of the goods and lands ought to be first found by the Inquisition of a jury, Co 4. 74. and the sheriff is to deliver him seisin of them, who is Tenant by *Elegit*, and shall do no wast. *May take a moity of the lands of the Conusor, and all his goods and chattels. Westm. 2. c. 18 Valuation of the goods and Lands must be found by inquisition.* Co 4. 74.

Upon *Elegit* the sheriff ought to return the extent, and also that he hath delivered the lands, *&c.* 12 *Edward* 3. *Scire facias* 117. and the extent shall be good for the sum due, notwithstanding that it be of more. 44 *Edward* 3 11. *Execution* 35. *The Sheriff must return the extent, and that he hath delivered the lands, &c.*

Term of years delivered in execution upon Elegit *good, and also rents.*

A man sued an *Elegit*, and had a term of years delivered to him in execution, which the Defendant had in possession as a chattel, and adjudged good. An Annuity may be extended, and Rents, *&c.*

The sheriff must return the moity distinctly, unless they be Tenants in common, &c.

In every *Elegit* the Sheriff must return and set out the moity distinctly, unless they be Tenants in Common, and in that case he must return the special matter. An *Elegit* issued out against one *Greisley*, by the name of *Greisley* Esquire, who was at the time of suing out the Writ made Knight and Baronet, and it was insufficient, and the Plaintiff prosecuted a new Writ. *Brownlow Rep.* 38.

Brownl. *Rep. fol.* 38.

The sheriff cannot deliver a Lease at another value then what the Jury had found it. Goods cannot be sold by the owner after the Test of the Elegit.

A Lessee had a Lease to the value of 100 pounds, and after the Teste of the *Elegit*, and before the sheriff had executed it, assigns his term to one, who assigns it to the Plaintiff in the *Scire facias*, and afterwards, and before the last assignment, the sheriff executes the *Elegit*, and delivers the Lease to the Plaintiff to be holden, *&c.* for satisfaction of the debt, which came but to 43 pounds 6 s. 8 d. and it was held by all the Judges, that the sheriff could not deliver the Lease at another value then what the Jury had found it at; and the sale made by the sheriff is as strong as if it had been made in the open Market, and that all the goods and chattels are bound after the Teste of the *Elegit*, and cannot be sold by the owner after the Teste of the Writ. *Brownlowes Rep.* 38. *Comes vers. Brandling.*

An execution valuable without satisfaction.

There are good diversities between an execution not valuable, (as of the Defendants body) and an execution valuable, as of Lands, *&c.* As if two men are bound joyntly and severally in an Obligation, and the one is sued, condemned and taken in execution, and afterwards the other is also sued, condemned and taken in execution, and then the first escapes, and the other brings his *Audita Querela*; in that case he shall be barred to bring that Writ, until the Plaintiff be satisfied. So likewise

the Defendant in debt die in execution, yet the Plaintiff may have a new execution by *Elegit* or *Fieri facias*: But if the Plaintiff have once execution of the lands of the Defendant, and after the Lands are evicted there before the ſtatute of 23 *H.* 8. *cap.* 5. he ſhall not have any new execution, for the execution of the Lands was valuable, and accounted in Law for a ſatisfaction, and (to avoid infiniteneſs) he ſhall have but one valuable ſatisfaction, or one execution, with ſatisfaction at the Common Law. *Co.* 5. 86. *b.* 3. *Blumfields* caſe. *23 H. 8. cap. 5.*

If upon an *Elegit* there be no execution but upon goods, becauſe there is no land, and the goods appear inſufficient, he may have a *Capias*. For note, it is in effect but a *Fieri facias*, though the word be *Elegit*: But if there be Land extended, then it is otherwiſe; and yet, *Quære*, if the debt be forty pounds, and nothing extended, but a Leaſe for three years at five pounds a year, or the like; for then to that which remaineth, the *Elegit* fails. *Hobert Rep. fol.* 58. *Note, where a Capias lies after an Elegit.*

If a judgment be obtained againſt a man, who thereupon ſells his Land, in whoſe hands ſoever the Land is, it ſhall be liable to ſatisfie that judgment; and to that end ſhall iſſue out a *Scire facias* againſt the *Terr-tenants*, if the debtor die. *Lands ſold after Judgment ſhall be liable to ſatisfie it.*

If two Writs of *Elegit* be delivered to the ſheriff both at one time, the ſheriff is to extend the moity of all the Lands, and ſhall give the moity to the more antient debt; and then he ought to extend a moity of the other moity, and deliver it to the other; for he cannot deliver a moity of all the lands to one, and the other moity to the other. See *Attorneys Academy*, 109. *Two writs of Elegit delivered to the ſheriff at one time, how to be executed.*

Several *Elegits* may iſſue into ſeveral Counties where the land lies. *Several Elegits may iſſue into ſeveral Counties.*

If a man be bound in a Recognizance to pay money at a certain day; after the year and day paſt, the Conuſee is to ſue forth a *Scire facias* againſt the Recogniſor, to ſhew why the Recogniſee ſhould not have execution: And if

the party be ſummoned, and appear not; or if he do[th] appear, *& nihil dicit*, the Conuſee may ſue forth a Wr[it] of *Elegit* to have execution of all his goods, and of t[he] moity of his lands: And if the ſheriff returneth upon th[e] *Elegit*, that the Conuſor hath made a feoffment of part [of] the land to divers perſons, and that he hath infeoffed t[he] King of the reſidue; thoſe of which the King is infeoff[ed] are diſcharged, but a *Scire facias* lieth againſt the othe[r] feoffees; and if they cannot plead any thing in Bar of th[e] execution, the Recognizee ſhall have execution again[ſt] them of thoſe lands by *Elegit*. *F. N. B. acc.*

In debt upon an Obligation, the Defendant pleaded con[-] ditions performed; and being at Iſſue upon a point ce[r-] tain, the Defendant before tryal, knowing that the Verdi[ct] would go againſt him, conveyed his lands to others, u[p-]on condition of payment of 20 l. but he himſelf took th[e] profits of them: the Plaintiff ſued forth an *Elegit* to ha[ve] moity of the land in execution; the ſheriff returned that he and the Jury doubted if the lands ſhould be ex[-] tended: it was the opinion of the Court, that the lands were extendable upon the *Elegit*. *Mich* 13 *Eliz. Dyer* 294. *vide Co.* 3. *part.* 78. in *Twines* caſe adjudged. 2 *Aſſ.* 44.

Upon a Writ of *Elegit* the ſheriff made his return, that he had delivered to the Plaintiff *bona & catalla defendentis ad valentiam* 20 *l. per rationabile precium*; and that he had delivered unto him 20 acres of lands of the Defendants, which is the moity of all his lands, *per rationabile extentum*; but did not return, that there was an Inquiſition taken of it by the oath of twelve men; and for that cauſe the return was holden inſufficient: for the *Elegit* ought to be by Inquiſition, for the ſheriff himſelf cannot extend the lands. *Trin.* 1 *Ma. Dyer* 100.

In debt againſt the Heir upon an Obligation of his Father, who pleaded, that he had nothing by diſcent, which was found againſt him: the Plaintiff had an *Elegit* againſt him, as well of the land which he had by purchaſe, as of that which diſcended unto him; but the reaſon thereof, as it ſeems, was by reaſon of his falſe plea. 21 E. 3. 9. *&* 10.

If the ſheriff upon an *Elegit* awarded returneth, that the Defendant hath no lands in the ſame County; upon

Teſtatum he ſhall have an *Elegit* into another County. 21 *H.* 7. 19. 26 *H.* 8 7. 20 E. 3. *Fitz. tit. proceſs* 43. But ſee 18 E. 2. *Fitz. tit. execution* 140. where it is holden, that he ſhall not have *Elegit* unto another County upon a *Nihil* returned.

A acknowledged a *Recognizance* of 250 l. unto the Chamberlain of *London*, and his Succeſſor; and afterwards he acknowledged a *Statute ſtaple* of 200 l. to *B*. *B* ſues execution by a *Liberate*, which is not returned: The Succeſſor of the Chamberlain ſues execution by precept to a Serjeant at Mace. in the nature of an *Elegit*, and hath the moity of the lands of *A* delivered in execution. *A* dies: It was reſolved in this caſe, amongſt other points: 1. That the execution by the Serjeant at Mace was good, notwithſtanding the ſtat. of *Weſt.* 2. *cap.* 18. which is, *Vicecomes liberet ei mediet atem*; for the Statute extends to every immediate Officer to any Court of Record. 2. That the execution of the *Elegit* was good enough, without ſuing a *Scire facias* againſt *B*, being by matter of Record: but it was ſaid, that if the ſheriff had returned the former execution, he ought to have had a *Scire facias* againſt *B*. 35 *Eliz. Cook* 4. *part.* 54. *Fulwoods* caſe.

In an action of debt, the Plaintiff declared of a recovery of coſts and damages in a Writ of Entry; the Defendant pleaded in Bar, that the Plaintiff immediately after the judgment took forth an *Elegit*, and delivered the Writ to the ſheriff, who executed the ſame, by delivery of the moity of the land to the Plaintiff: but the Writ was not returned; yet it was holden a good Bar, becauſe the Plaintiff cannot vary from the execution of which he hath made election upon Record. *Paſc.* 13 *Eliz. Dyer* 299.

Upon an execution upon an *Elegit*, if there be no execution but upon goods, and the goods be not ſufficient to ſatisfie the debt, and there is no land, it was the opinion of *Hobart*, Chief Juſtice, that the party may have a *Capias* againſt the Defendant; for now it is in effect but a *Fieri fac.* although the word be *Elegit*; but if the land be extended, it is otherwiſe. And yet *quære*, if the debt be 40 l. and nothing extended but a Leaſe for three years, at 5 l. a year for them; as to that which remains, the *Elegit* fails. See *Hob.* 58, 59. in *Foſter* and *Jacksons* caſe.

The Conuſor and the Conuſee of a ſtatute both die; the Executors of the Conuſee ſued forth execution by *Elegit*; upon which Writ the ſheriff returned the death of the Conuſor, and alſo an Inquiſition of extent of the lands of the Conuſor: but in the Inquiſition no eſtate was returned, but generally, that the Conuſor was ſeized at the day of the Recognizance acknowledged of the Manor of *B*; notwithſtanding a *Liberate* iſſued forth upon that return, and the Executors accepted of it according to the extent. The doubt was, If the Executors die before any profits received by them of the land upon the extent, if their Executors might have a re-extent upon that inſufficient and uncertain return: And it was the opinion of the Juſtices, that they might, for the firſt extent was void. For the return, that he was ſeized, might be taken, either of an eſtate for life, or in tail; in which caſe after the death of the Conuſor, his land is not extendable: and where the death of the Conuſor appears in the return, it ought to be found that he was ſeized of an eſtate in Fee-ſimple only, and not of any other eſtate. *Paſc.* 11 *Eliz. Dyer* 299.

A Writ of *Elegit* was ſued forth after judgment, the Writ recited the Judgment, *Quod Elegit executionem* of the goods, of the moity of the lands; and the Writ was, *Tibi precipimus quod bona & catalla* of the Defendant, *Quæ habuit die judicii, prædict. reddi deliberari facias* omitting the words, Et *medietatem terrarum & tenementorum*, *tenendum* the ſaid goods, and the moity of the ſaid lands, *Quouſque debitum levetur*. The ſheriff extended the moity of the lands and the goods, and delivered the moity of the land, and returned the Inquiſition. It was moved, that the Writ might be amended, being but the miſpriſion of the Clerk, and that the extent might ſtand. But it was the opinion of the Court, that it ſhould not be amended, but he might have a new *Elegit*, becauſe the Inquiſition was taken without warrant. *Mic.* 5. *Car. in B. R. Walker* and *Rich.* caſe. *Cro.* 1. *part.* 116.

In treſpaſs upon a Demurrer, the caſe was, the ſheriff returned upon an *Elegit*, that the party had not any lands, but only within the liberty of *B.* and that *I S* there had execution, and return of Writs, who enquired and returned in extent upon Inquiſition, and that the Bailiff delivered

vered the moity of the lands extended to the party, and by vertue of that extent the Plaintiff entred. The first question was, whether the Bailiff of a Liberty might make inquisition and extent upon an *Elegit* by warrant from the Sheriff. It was resolved, that he might. 2. When the Jury finds the seisin of the land, if the Jury ought to set out the moity for the plaintiff, or the Bailiff: It was resolved, that the Jury shall extend all the land, and the Bailiff, or Sheriff, where no Franchise is, shall deliver the moity to the party, and not the Jury. *Hill.* 8. *Car. in B. R. Sparrow* and *Mattersocks* case. *Cro.* 1. *part.* 232.

Note, that it was resolved by the Court in *Fulwoods* case, that the execution of the *Liberate* was good, although the Writ was not returned: and so it is upon a *Capias ad satisfaciendum*, and *habere facias possessionem*, and all other Writs where land only is to be delivered, seisin had, or goods sold, they are good, although the Writs are not returned: But otherwise it is, where an Inquest is to be taken, as in an *Elegit*, and that is to the intent that the Court may judge of the sufficiency of the Inquisition. *Cooke* 4 *part.* 65. *vide Cooke* 4 *part.* 74.

A recorded 400 l. against *E O*, who died; and upon a *Scire facias* the Sheriff returned *B* ter-tenant *Omnium terrarum & tenementorum in balliva sua, quæ fuerunt prædict.* E O, *&c.* and judgment was given, that *A* should have execution against the said *B*; whereupon *A* prayed *Elegit*, which was entred upon the Roll. *Elegit sibi liberari medietatem omnium terrarum & tenementorum in Com. Stenend. &c. quousque, &c.* but the words *quæ fuerunt prædict.* E O were omitted: And for that the judgment was reversed, *quoad adjudicationem executionis* upon the *Elegit*; and yet it was holden by the Court, that the Writ it self, and the return of it, were well in that point: but it was said, where the Roll is faulty, the writ will not help it. *Mic.* 5. *Jac.* in the Exchequer. *Keer* and *Owen* scase. *Hob.* 90.

If a man doth pray to have an *Elegit* to have the moity of the Defendants lands in execution, and the Sheriff return-ed that he had no lands, whereupon he prayed a *Capias* to arrest the party, but the Court would not grant it; but if the Conusee, *&c.* would tarry till lands did come to the Defendant, or goods, then, *&c.* But now he could not have a *Capias*, nor a *Fieri facias*. And the causes that the entry in the Roll

No Capias nor Fieri fac. doth lie after an Elegit, and why?

Roll is, that he hath chosen his execution of the moity of
Mich. 30 E. 3. c. 24. his Lands, the which he must stand to, because it is an execution in the superlative. *Mich.* 30 E 3. 24.

Capias ad Satisfaciendum, what it is.

IT is a Writ (by the statute) after Judgment, lying where a man recovereth in an action personal, as debt, or damages, or detinue; and he against whom the debt is recovered, and hath no Lands or Tenements, nor sufficient goods, whereof the debt may be levied: In this case, he that recovereth shall have this Writ to the sheriff, commanding him, that he take the body of him against whom the debt is recovered, and he shall be imprisoned until satisfaction be made to the recoverer. And the sheriff must keep him in *salva & arcta custodia*, unless he intend to pay the debt himself: For if a prisoner be taken upon execution, and he shall afterwards let him go at liberty before the debt be satisfied, *&c.* the Creditor may have either an action of debt, or an action upon the Case against the sheriff, and so recover his debt. *Fitz.* 93. *a. c.*

Prisoners must be kept in salva & arcta custodia: Fitz. 93. *a. c.*

Capias *ad satisfac. where a* Capias *lies in the Original.*

A man shall not have a *Capias ad satisfaciend* but where a *Capias* lieth in the Original. 11 *H.* 9. 18. *vide Co.* 3 part Sir *William Herbets* case. 8 *H.* 6. 9. 22 *Ed* 4. 22.

Nothing but the body can be taken by this Writ. Co. 5. 8.

Upon this Writ the sheriff can take nothing but the body of the Defendant; for the Writ is to do no more but take his body, and to detain him in prison till he hath satisfied the debt. *Co.* 5. 8.

A man in the custody of the sheriff, and a second Writ is delivered to him, he shall be in his custody upon it, although actually arrested.

When a man is in the custody of the sheriff by process of Law, and afterwards another Writ is delivered to him to arrest him who is in his custody, presently he is in custody by force of the second Writ by judgment of Law although he do not actually arrest him; for to what purpose

ose shall he arrest him, who is and was before in his custody? *Et lex non præcipit inutilia, quia inutilis labor stultus.* And the words of the *Capias ad satisfac.* are not only *quod capiat*, &c. but *quod salvo custodiat*, &c. *Ita quod habeat corpus*, &c. So that although he cannot take him who he hath in his keeping, yet he may safely keep him: and therewith agreeth 7 *H.* 4. 30.

7 H. 4. 30.

If two men be bound joyntly and severally in an Obligation, the one is sued, condemned, and taken in execution, yet the other may go scot-free; for he may be likewise sued and taken in execution, until the Plaintiff be satisfied of his entire debt. *Coo.* 5. 86. But if the Creditor be satisfied by the first that was in execution, the other may plead this satisfaction, and be discharged. 29 *H.* 8. *tit. Execut. b.* 132.

Two bound in an Obligation joyntly and severally, both may be sued and taken in execution, &c.

A woman recovering damages in a Writ of Dower, she cannot have execution of these damages recovered by a *Capias ad satisfaciendum*, because the *Capias* was not in the *Original.* 11 *H* 7. *fol.* 5. 2 *H.* 7. *fol.* 7.

No Cap. ad satisf. for damages in a Writ of Dower.

If a man be condemned in an action of debt, and the sheriff hath him in execution, by a *Capias ad satisfac.* by arresting him, although the sheriff do not return the Writ, an action of false imprisonment is not to be brought against the sheriff for not making return of the Writ; for the Writ of *Capias ad satisfac.* is not as other *Capias*, that is, *So that you have his body before*, &c. For in every *Capias ad satisfac.* the judgment is given before, and it is but to take execution of the party, in which no answer nor return availeth. *Pasch.* 21 *H.* 7 *fo.* 13.

No return required upon a Cap. ad satisf.

If one be in execution by his body, and the party doth release unto him all actions, suits and debts, he shall not have an *Elegit*, nor a *Capias*, because the duty is extinct. 26 *H.* 6 *Execution* 7.

If a Defendant hath a *Supersedeas*, *Quia erronice emanavit*, and gives it to the sheriff after arrest, the sheriff must discharge the Defendant: But if the *Supersedeas* be grounded upon a Writ of Error, it cannot discharge the Defendant; for the words of that Writ are, *Si executio non fiat.* *Hob.* 329. 34 *H.* 6. 18. & 45. 19 *H.* 6. 8. 6 *H.* 7. 17. 19 *H.* 6 43. 34 *H* 6. 18.

Capias

Capias pro Fine. Capias Utlagatum. Capias ad Valentiam.

THere are other three Writs of *Capias* after judgment *viz.*

1 *Capias pro Fine.*
2 *Capias Utlagatum.*
3 *Capias ad Valentiam.*

Cap. pro Fine, *what it is.*

1. The *Capias pro Fine* is, where one being fined by judgment unto the King, upon ſome offence committed gainſt a ſtatute, doth not diſcharge it, according to the judgment: by this is his body taken, and impriſoned till he pay the Fine. *F.N.B.*76. *Coo.*11.42.8.60.

An Elegit *ſued after one is taken for the Kings fine, he ſhall go at large.*

If the Plaintiff ſue an *Elegit* after the Defendant is taken for the Kings Fine, he ſhall go at large, for ſuch execution doth diſcharge the body. 7 *H.*6.6. and 7. So if he ſue by *Fieri facias.* 18 E. 3. *Execution* 54. Yet upon *Nihil* returned, he may have a *Capias*, &c.

One taken upon a Cap. &c. *in treſpaſs*, &c. 47 E.3. Exec. 41.

If the Defendant be taken upon a *Capias pro Fine* in treſpaſs, and the Plaintiff prays that he may remain in priſon for his execution, the Plaintiff not ſatisfied ſhall have an execution afterwards. So if one pray an *Elegit* of lands, and nothing is returned but a rent, he ſhall have an *Elegit* of the ſame. 47 E. 3. *Execution* 41. See *F. N. B.* 246. & Stat. 32 *Hen.* 8. *cap.* 5.

Cap. Utlagat. *what it is.*

2 *Cap. Utlag.* is a Writ of Exec. (after judgment of the Coroner of the County, into which the Exigent and Proclamation iſſued) which lieth againſt him that is outlawed, by the which the ſheriff upon the receipt thereof apprehendeth the party outlawed, for not appearing upon the *Exigent*, and keepeth him in *ſalva cuſtodia* (*viz.*) in ſafe cuſtody.

If a *Capias Utlagatum* iſſueth to the ſheriff to take a party, and to enquire what lands and tenements he had, and the ſheriff finds by Inquiſition, that he is ſeized of many lands, and continues poſſeſſion in them, and the ſheriff do out me, I may have an action of treſpaſs againſt him. *Winch. fol.* 78. *Note.*

Capias Utlagatum & enquiras de bonis & catallis, is a Writ of the ſame nature with the precedent, but that it giveth a further power to the ſheriff, over and beſides the apprehenſion of his body, to enquire alſo of his goods and chattels. *Minſh. fo.* 111. *b.* Cap. utlag. & inquiras de bonis & catallis, *what it is.*

Capias ad Valentiam, is a Writ of execution, and lieth where the tenant is impleaded of certain lands, and he voucheth to warranty another, againſt whom the ſummons *Ad Warrantizandum* hath been awarded, and the Vouchee cometh not in at the day given: Then if the Demandant recover againſt the Tenant, he ſhall have this Writ againſt the Vouchee, and ſhall recover ſo much in value of the Vouchees Lands, if he have ſo much: And if he have not ſo much, then the Tenant ſhall have execution by this Writ of ſo much Lands and Tenements as deſcend to him in Fee-ſimple; or if he purchaſe afterwards, the Tenant ſhall have againſt him a Re-ſummons; and if he can ſay nothing, he ſhall recover the value. *Old Natura Brevium.* fol. 161, 162. *Terms of the Law* 45, 46. Cap. ad Valen. *what it is.*

Fieri Facias, what it is.

A *Fieri Facias* is a judicial Writ, and lieth for him that hath recovered debt or damage, directed to the ſheriff, commanding him to levy the debt or damages of the Defendants goods: it muſt be brought within the year and day. This Writ hath beginning from *Weſtm.* 2. *cap.* 18. *Anno* 13 E. 1. *Old Nat. Br.* fol. 150. See great diverſity thereof *in the Table of the Regiſter Judicial.* Ver. Fieri Facias. *Weſtm* 2. c. 18. 13 E. 1.

The

The sheriff must be cautious in executing this Writ, &c.

The Sheriff or Bailiff ought to be very cautious in executing this Writ; for if the goods or Leaſe which ſhall be taken be the goods of a ſtranger, though they be found in the poſſeſſion of the Defendant, yet if it be found upon Tryal, that the Defendant hath no property in the goods or chattels, then the Sheriff or Bailiff that executed that Writ, ſhall be a treſpaſſer to the right owner of the goods, and ſhall recover damage to the value of the goods ſo taken, with coſts of ſuit, although the Office hath delivered them to the Plaintiff in execution. *Dalt. office of Sheriffs, fol. 60.* Therefore the ſafeſt courſe the Sheriff or Bailiff is, not to take any goods in execution, unleſs they plainly appear to them to be the proper goods of the Defendant; for the Officer is bound at his peril to take knowledge whoſe goods they be. *Ibidem.*

Dalt. office of ſheriffs, fol. 60.

If a *Fieri facias* be awarded for twenty pounds to a ſheriff, upon which he takes an entire Chattel, and ſells it for forty pounds, and returns the *Fieri facias* with the twenty pounds in Court, he may detain the ſurplus until the Defendant comes to demand it of him, for he is not obliged to ſearch out the Defendant; but if a *Fieri fac.* be awarded for 40 s. by force of which the Sheriff takes five Oxen, every one at the value of five pounds, and ſells them all, the Defendant may have an action of Trespaſs againſt the ſheriff. *Noy fol. 59. Woodby* againſt *Cole &c.*

Sale upon a Fieri fac. ſhall ſtand, though judgment be afterward reverſed.

Sale by the ſheriff upon a *Fieri fac.* ſhall ſtand, although the judgment afterwards was reverſed, and the Plaintiff in it reſtored to the value. *Dyer* 363. 24. *Co.* 8. 76. b. *Mannings* caſe.

Upon a Judgment againſt an Exec. or Adminiſtra. no Cap. ad ſat. lies, but a Fi. fa. &c.

Upon a Judgment againſt an Executor or Adminiſtrator, the Plaintiff cannot have a *Capias ad ſatisfaciendum* againſt the body, but a *Fieri facias de bonis Teſtatoris*; and if the ſheriff return a *Devaſtavit*, then a *Capias ad ſatisfaciendum* againſt the body, or a *Fieri facias de bonis propriis.* And if there be two Executors, and the ſheriff returns a *Devaſtavit* againſt one of them, and he dies, then *But if a* Devaſt. *be returned, then a* Cap. ad ſatisf. *or* Fi. fac. de bonis propriis, *&c.*

her shall not be charged for that *Devastavit*; for the one shall not prejudice the other; but a gift by one of them is good against the other.

A *Scire facias* after the year for damages recovered in waste, and a *Nihil* returned, he shall not have an *Elegit*, until the tenants be warned, but he may have a *Fieri fac.* without warning of them, 4 E. 3. 23. *Execution* 99. *Old. N.* 168.

After Scire fac. no Elegit lies, until the tenant be warned, but a Fi. fa. doth.

The Sheriff returned upon a *Fieri fac. mandavi ballivo*, who said that he had seized to the value, but he could not find buyers; and because the Court cannot send to the Sheriff to have the money here, as they might upon his own return, therefore they awarded a Writ to the Sheriff to levy the money of the lands and goods of the Bailiff, to the value of that which he had seized: The same Law is upon a seizure of an antient sheriff. 5 E. 3. *Execution* 101.

Goods taken upon a Fi. fa. and no buyers found, an Order to levy the money upon the goods and lands of the Bailiff. 5 E. 3. Ex. 101.

Fieri fac. for damages recovered in waste upon a Lease for years, it was returned, that the Lessee had no goods but the remnant of the same Lease; and it was holden, that by *Sicut alias*, that the Sheriff might sell the Lease, as well as pots and pans in execution, for the *Fieri facias* is *de terris & catallis*, of the lands and chattels, *&c.* 19 E. 3. *Execution* 148.

If no goods be found, the sheriff may sell a Lease for years, &c. 19 E. 3. Ex. 148.

A *Fieri fac.* to the sheriff to levy the expences of the Knights of the Parliament, the sheriff may sell the beasts of one of the Hundred for the whole, or the beasts of any person he shall find within the Precinct. 11 *H.* 4. 2. *Assowry* 52.

A Scire facias issued out against an old sheriff (after a new one elected) for money levied by him, &c. 9 E. 4. 50.

The sheriff returned upon a *Fieri fac.* that he had levied the money, and that he had the same in Court, whereas he had not the money at the day: and then a new sheriff is chosen; and because it was upon Record, that the old sheriff had levied the money, a *Scire facias* issued forth against him to pay it; and if he cannot, or will not otherwise discharge and pay the money, the party shall have a *Fieri fac.* or an *Elegit* against the sheriff of his proper goods, *&c.* 9 E. 4. 50. *Scire fac.* 2.

Mich. Scire fac. 2

Bond taken by the sheriff not within the stat. of 23 H. 6. c. 10. 19 H. 6. 43 *Co.* 10. 99. *b.* 3. *in* Beaufages *case.*

Mich. 10 *Jac.* Upon a motion at the Bar it was resolved, that an Obligation to the sheriff upon a *Fieri facias* for the payment of the money in Court, was not void by the statute of 23 *H.* 6. *cap.* 10. For the first branch of that statute is, that he shall let to Bail by Writ or Bill, &c. which he could not do before; as appears, 19 *H.* 6. 43. The second shews the form of the Bond, *&c.* The third contains a penalty, that if the sheriff take an Obligation in any other form, *&c.* then is there prescribed, that it shall be void: So that upon consideration of all the branches together, and upon their coherence and dependance one upon another, it plainly appears, that the said statute doth extend only to Obligations of such as are within their guard and custody, and not otherwise.

Where the under-sheriff justified the breaking of three doors, &c. *to do execution,* &c.

Trespass brought for breaking his house, and breaking three doors, and breaking and carrying away three locks of those doors: The Defendant justifies the entry into the house by vertue of a *Fieri facias* awarded against the Plaintiff, directed to the sheriff; and he being under-sheriff, and the other Defendants his Bailiffs, two of the Defendants entred into the house, and the door being open, took the goods, and the Plaintiff shut the doors upon the Bailiffs, and imprisoned them for two hours; wherefore he broke open the doors, and the locks, to rescue his Bailiffs, *Quæ est eadem transgressio:* and it was thereupon demurred; and all the Court held, that although a sheriff cannot break open an house being to take execution by *Fieri fac.* yet when the door is open, that he enters, and be disturbed in his execution by the parties who are within the house, he may break the house to rescue his Bailiffs, and to take execution; so it was adjudged for the Defendants. And in regard this restraining of the execution, and detaining of the Bailiffs, was confessed by the Demurrer, an Attachment for the good behaviour was awarded against the Plaintiff. *Crooks* second part, *fol.* 555. and 556.

The sheriff may sell a Lease for years, &c. *without taking Inquisition of them.* Co. 5. 90. 4. 74.

If the sheriff take Leases for years, or other chattels real upon an execution, he may seize and sell them without taking Inquest by a Jury of them, and the sale will be good. *Co.* 5. 90. 4. 74. And no return is required upon a *Fieri facias*, if execution be done; which is grounded upon four strenuous and solid reasons, by *Coo.* in his 5 *Report.* in *Hoes* case.

Note, It was resolved by the Court, that if a *Fieri facias* cometh to the sheriff to levy money upon the goods of a man, and the sheriff by writing recite, that he had a term for years which began 2 *Ma.* whereas in truth the term began 3 *Ma.* sell the same term, the sale is void, for that there is not any such term: But if the sheriff sell also all the interest which the party had in the land, the sale is good. 26 *Eliz.* Sir *George Sydenhams* case adjudged. But in the principal case, afterwards upon looking into the Record, it was found, that the execution was not by *Fieri facias*, but by *Elegit*, which ought to be made by inquisition *per Sacramentum* 12. and not by the sheriff: And because the term was mis-recited in the Inquisition, and the sheriff cannot sell any term but that only which was apprized by the Jurors of the Inquest; for this cause it was the opinion of the whole Court, that the sale of the term in the principal case was void, and judgment given accordingly. *Hill* 39 *Eliz.* in *B. R. Cook* 4 *part.* 74. *Palmers* case.

Four reasons why no return is required upon a Fieri fac.

1. Because the levying of the debt is lawful, and well done, and the party-Defendant cannot resist the sheriff to levy money.

2. The effect of the authority the sheriff hath, by force of the *Fieri facias*, is executed.

3. The great prejudice that the Defendant (whose goods are sold by the Writ, and process of Law for the satisfaction of the debt) should have, if the sheriffs not returning of the writ should cause a new execution to be sued forth against him, and leave the Defendant to his action against the sheriff.

4. If the sale of the goods by force of the writ, shall be for not returning the writ wrongfully, then the sheriff will not find Buyers of the Defendants goods, by force of any writ of execution; which would be very inconvenient, and great delay of executions, which are the fruit and life of every suit: and where the words of the writ of *Fieri facias* are, *Et quod habeas denarios, &c.* they are but words of command to the sheriff to make return, which if he do not, he shall be amerced, but the execution shall stand in force.

Levari Facias, *what it is.*

WE come to the seventh, which is a *Levari facias*; and it is only to be levied upon the profits of the lands and tenements, and upon the goods of him that hath forfeited a Recognizance, *&c. Register Orig. fol.* 298. *b.* but he cannot seize the Land, and deliver that to the party by this Writ, *Plow.* 441. and this ought to be sued within the year, after the day of payment to be made by the Recognizance, or after the Judgment; for after the year, the Conusee or Plaintiff is now by the Statute of *Westm.* 2. *cap.* 45. to have a *scire facias*, whereby the Plaintiff is commanded, that he give knowledge to the Defendant, that he appear at a day certain in the Chancery there to shew what he can say, why he should not pay the debt or damages; and if he come not at the day, or come and can say nothing why execution ought not to be done, then the sheriff shall be commanded to do execution. *Fitz.* 266. *c.*

Register Origin. fol. 298. *b.* 300. *b. Plow.* 441. *Stat. Westm.* 2. *cap.* 45. *Fitz.* 266. *c.*

And if the sheriff upon this Writ return that he hath levied part of the sum, *viz.* sixteen pounds part thereof which he hath delivered to the party; now upon this return, the party which ought to have the money, may have a *Sicut alias*, *Levari facias*, directed to the sheriff to levy the residue of the sum. *Fitz.* 265. *b.*

Part of the sum levied, a Sicut alias Levari facias may issue out for the residue. Fitz 265. *b.*

Of Habere facias seisinam, *and* Habere facias possessionem.

THere are other Writs of execution, which are necessary to be treated of, *viz.*

1 *Habere facias seisinam*, and
2 *Habere facias possessionem.*

Which executions are for recovery of land in a real action; as *Cap. ad sat. Fieri fac.* and *Elegit*, are for recovery of debt or damages in a personal action. *Co.* 6. 51. *F. N. B.* 265. *West.* 2. *cap.* 18. *Co.* 6. 51. *F.N.B.* 265. *Westm.* 2. *c.* 18.

And first of the *Habere facias seisinam*, which is a judicial Writ, and lieth where one hath recovered certain lands in the Kings Court, directed to the sheriff, commanding him to put him in actual seisin of that land; which is done by delivering a bough of a tree, or by a clod of the same land in the name of seisin, *&c.* and if the recovery be of a house, then the sheriff may put him in seisin, by delivering unto him the ring of a door; or otherwise he may open the door, saying to him, *Enter into the house, and take seisin thereof by vertue and force of the recovery. Perk. Sect.* 206, 207, 208. *F. N. B.* 220. Habere facias seisinam, *what it is, and where it lies.*

2. It is a Writ judicial, and lieth where one was evicted from his farm, and hath recovered it by *Ejectione firmæ*, or *quare ejecit infra terminum*: it is directed to the sheriff, to command him to put the Plaintiff in actual possession of the term again. The sheriff in executing both these two Writs may break the house, and deliver seisin and possession thereof to the Plaintiff. But he cannot justifie the breaking a mans house, to execute a *Cap. ad satisfac.* or *Fieri fac.* But where the King is a party, there the sheriff may justifie the breaking of the house to execute his process, if they cannot be executed otherwise: yet he must first request the opening of the door, and withall signifie the cause of his coming. *F. N. B.* 220, 221. *Co.* 5. 91 6. 51. *Dyer* 278. Habere facias possessionem, *what it is, and where it lies.* *F. N. B.* 220. & 221. *Co.* 5. 91. 1. 6. 51 *Dyer* 278.

Some ſelect Caſes which have not been yet publiſhed in any Treatiſe of this nature, &c. concerning Returns of Writs, where valid and good, and where inſufficient.

Return hath a threefold acceptation, and how.

THis word *Return* hath a triple acceptation. Firſt, as it is applied to the caſe of a *Replevin*, and there it is called *Returno habendo* Secondly, it is applied to the daies of appearance in every term. And thirdly, it is applied to the Sheriffs and Bailiffs, and it is that which we are determined to handle: And it is a Certificate made by the Sheriff or Bailiff to the Court from whence the writ iſſued. They ought to be very diligent in making true, certain, and perfect returns, ſubſcribing their names to them; for if they make a falſe return, the party endamaged thereby may have an action of the caſe againſt him that made ſuch return. See *Co.* 5. 90. 11. 40. and 4. 67.

Return of a Cepi corpus *for one, and a* Non eſt inventus *for others, by one that was not ſheriff.* Bulſtrods *Rep. firſt part fol.* 70. Egerton *againſt* Morgan, *and others* *Co.* 3. 27. Weſtbies *caſe.*

In *Mich. term* 8 *Jac.* The words of a Return were theſe, viz. *Virtute iſtius brevis mihi directi, cepi corpus* E M, *infra nominati, cujus quidem corpus coram Dom. Reg. ad diem & locum infra contenta paratum habeo, prout interius mihi præcipitur.* And at the end of the return was ſet *Reſponſ.* *S H*, which *S H*, at the time of the return, was not then Officer to the Court, nor to the King, and ſo diſabled to make a return; and therefore the return inſufficient. The writ was directed to the ſheriff, and ſo ought the return to have been by the ſheriff; for none can make a return of a writ, but ſuch a perſon, who at the time of the return remained an Officer to the Court. If the old ſheriff be removed before the day of the return, the new ſheriff is to make the return: and to this purpoſe is the book of 22 E. 4. *fol.* 33. and 34. in the caſe of a Writ of Error, to reverſe a falſe judgment given before the Mayor and Sheriffs in the Court at *Coventry*: and *Co.* 3. *fol.* 72. *Weſtbies* caſe; where it is reſolved, that after the election of a new ſheriff, and before delivery over of the priſoners to him, they do remain in the cuſtody of the old ſheriff; and after the delivery

delivery of them over to the new ſheriff, he at the day of the return, ought to return *Cepi corpus*: but in this caſe the return by the new ſheriff before any delivery over of the priſoners to him by the old ſheriff, is no return at all in Law. And the old ſheriff can now make no return, he being no Officer at all to the Court, but the new ſheriff is the Officer to the Court, and ought to make his anſwer unto the Kings writ to him directed; and he doth not here return a *Cepi corpus*, but only an indorſment in this manner, ſetting his hand alſo to the return, with this Poſtſcript, viz. *Iſtud breve, prout ſuperius indorſatur, ego modo Vicecom. recepi de* A B *nuper Vicecom. Com. mei, in exitu ab officio ſuo*; and this upon the matter is no return at all. Here the new ſheriff hath made a return, but the ſame is not good, being but parcel of that which he ought to have returned. For as to the other two, his return is, *They are not to be found within my Bailiwick*, this return is not good, for he ought to have ſaid, that *thoſe two, nor either of them were to be found*. And it is ſaid that the old ſheriff put his hand to the writ, he was at that time out of his office, and ſo he was no Officer of the Court, and ſo it is in effect, as if he had not put his hand at all to the return; and ſo the return being as no return in Law, is meerly void.

An indorſment of writs as was received by the new ſheriff from the old ſheriff.

Surplusage no cauſe to the return of a writ. Wineh. Rep. fol. 27.

Upon an *Elegit*, the ſheriff returned that to be executed, and the extent of the Church of *S. Andrews*, *alias S. Edes*, and it was prayed, that the ſheriff might amend it, and make it *Andrews* only, for that was the true name, and the Court ſaid that the *alias dictus* is ſurpluſage, and will not hurt the return of the writ. *Wineh. Rep. fol. 27.*

A writ of Proclamation upon the Exigent was returned by the ſheriff out of Office at the time, upon which the Outlawry was adjudged void. *Stat. 6 H. 8. Dyer* 103.

A Proclamation upon Exigent returned by a ſheriff out of office, void.

To return Reſcous upon a *Latitat* is no good return, for the ſheriff might have had a *Poſſe Comitatus* as well for the ſerving the ſame proceſs as an execution. 10 *H.* 7. 26. 33 *H.* 6. 1. 10 *E.* 4. 3. *F. N. B.* 102. *Dyer* 162.

Reſcous upon a Latitat, no good return

Return by one sheriff where there are two, no good return

If a Writ be directed to a place where there are two sheriffs, as *London*, *York*, *&c.* and one of them doth return the Writ, it is insufficient: for though one (according to custome) doth execute it, yet it must be returned in both their names. 21 *Ass.* 20. *Br. Officer* 22.

Cepi corp. returned upon a Cap. ad sat. and hath not the body at the day, an escape, &c. Br. Ret. 107.

If the sheriff upon a *Capias ad satisfaciendum* returneth a *Cepi corpus*, and hath not the body at the day, *&c.* he is chargeable for an escape. Or if upon a *Fieri facias*, he returneth a *Fieri feci*, and hath not the money at the day, *&c.* he is chargeable with the money. *Br. Ret.* 107.

In all Writs of execution (except an Elegit) no return is required But an Elegit must be returned. Co. 4. 67. *a.*

Yet in all Writs of execution (except an *Elegit*) as upon a *Cap. ad satisfac. Habere facias seisinam vel possessionem, Fieri fac. Liberate, &c.* If the execution be duly done, although the Writ never be returned or filed, it much matters not, if the Plaintiff have his demand, for then he hath no cause of further proceeds in it. But in case of an *Elegit*, because the extent is to be made by an Enquest, and not by the sheriff alone, that ought to be returned, otherwise it is invalid. *Co.* 4. 67. and 5. 90. But where no Enquest is to be taken, but only land to be delivered, or seisin had, or goods to be sold, which are but matters in *fait*, these are sufficient, although the Writ be not returned. *Co.* 4. 67. *a.*

To say that the party will not pay his fees, no return. For the sheriff to say that his Bailiff will make no deliverance, no good return

It is no good return for the sheriff to say, that the party will not pay his fee; *ergo*, he did not execute the Writ. 67. 5. 90. 34 *H.* 6. *Br. Ret.* 10.

All Sheriffs and Bailiffs who have return of Writs, ought to set both their names of baptisme and sir names to their returns. *Plo.* 63. *a.* so that the Court may know of whom they received such returns, if necessity requires. And this is by force of the Stat. of 12 *E.* 2 *cap.* 5. Yet by the Stat. 18 *Eliz. cap.* 13. imperfect or insufficient returns of sheriffs are corrigible.

Upon a Replevin, the sheriff returns, *I have commanded the Bailiff of the Liberty of*, &c. *who will make no deliverance*, &c. these are no good returns; for the sheriff himself ought to have entred the Franchise, and to have made deliverance of the cattle, *&c. Fitz.* 68. *f.*

He

He shall be amerced for the default of his under-sheriff, County-clerk, or Bailiff. 38 *Ass. p.* 13. *Br.* 77. 1 *R.* 3. c. 4. But by the Stat. of 27 *H.* 8. c. 24. amerciaments for insufficient returns of Writs, made by Bailiffs of Liberties, shall be imposed upon such Bailiffs, and not upon the sheriffs. *He shall not be charged for insufficient returns by Bailiffs of Liberties.*

T V brought an action of the case against *R G*, Clerk in the Kings Bench, for calling him perjured fellow, and had judgment by *nihil dicit*: and thereupon had a VVrit of enquiry of damages to the sheriffs of *Norfolk* thus: *Præcipimus est vic. quod per sacramentum duodecim proborum & legalium hominum de balliva sua diligenter inquirat quæ damna, &c.* VVhereupon the sheriff returned, *Quod mandavit* I G *ballivo libertati Rad. Hare mil. Hundredi de* Blackcloiescui *execut præd brev. totaliter respondeat fiendæ, & quod alibi infra Com. præd p r se fieri non potuit. Qui quidem Ballivus sic sibi respondit.* And so sets down an Inquisition before the Bailiff, and 40 l. damages. Hereupon a VVrit of Error was brought in the Exchequer-Chamber, and agreed by all the Judges, that the return was insufficient, for it was apparently untrue, and against Law, because the VVrit was directed to the sheriff himself to be executed in any part of his shire, and no venue contained in this inquest of Office, as there is in other VVrits which run into the Bailiffs of Liberties: But yet the Court would not reverse the judgment, because there were divers of the like in the Kings Bench and Common Pleas, especially in *Suffolk* and *Norfolk* in latter times. *Hobart rep fo.* 82. *Vireds verf. Gunston.* 13 *Jac. & f.* 12 *Jac. Rot.* 252.

Every return ought to answer the VVrit (*ad punctum*) and therefore where the VVrit was, *That you make known to the Heirs of the Lands and Tenements which were of A, &c.* And the sheriff returned, *That he made known to B Esquire, Son and Heir of the said A, &c.* which was not good, and assigned for error, *&c.* because he did not return him Heir of any Lands or Tenements, as the VVrit required; for his VVrit was not to summon the Heir of the said *A*, but the Heir of the Lands and Tenements of the said *A*. *Co.* 3. 15. *Every return must exactly answer the writ.* *Co.* 3. 15.

Usually the omission of words make the return invalid; as where the return was, *The residue of this Writ appears in a certain Schedule, &c.* For, *the residue of the execution* *Sometimes the omission of words make the return invalid.*

19 *H.* 6. *Fitz. ret.* 14. 3 *H.* 7. 11. *a. Br. ret.* 88. 34 *H.* 6. 49. *Br. ret.* 14. *Co.* 8. 127, 128.

of this writ, this is insufficient and vicious. 19 *H.* 6. *Fitz. Ret.* 14. For by 3 *H.* 7. 11. *a. Brook Ret.* 88. the return of the sheriff ought to be certain to every intent, and he is obliged to take knowledge of the Law in making his return: And therefore in a *Scire facias* to L B, Master of the Free Grammar-school of *Skipton*, *&c.* and to the Scholars of the same, *&c.* he returned, *That he was known to the Master, &c.* And did not say, *That he was known to* L B *Master, &c.* And likewise he omitted Scholars; which return was insufficient and void. See *Co.* 8. 127, 128.

10 E. 4. 15 The sheriff upon a *Capias* returned, that he arrested the Defendant at *S.* and would have carried him to the Gaol, and that *A B* rescued him: which return was holden invalid because he did not shew at what place *A B* made the rescue, for it shall not be intended the place where the arrest was.

Note: It was holden by the Court, that the return of the sheriff of a Rescous made to his Baily Errant by these words, viz. *Virtute istius brevis, &c. mandam Ballivo meo itineranti, &c. qui mihi sic respondit, quod arrestavit, &c.* and shewed the certain day, year and place, *&c.* and that Rescous was made, was no good return, because the arrest is the proper arrest of the sheriff himself, and no credit to be given to the saying or answer of the Baily Errant; otherwise it is of a Baily of a Franchise: and in the principal case it was holden, that if it be upon a *Capias ad satisfaciendum*, or upon a *Capias utlagatum* after judgment, the sheriff himself shall be charged with an escape, except it be by the Kings enemies. *Trin.* 7 *Eliz. Dyer* 241. See more largely in the French above.

The sheriff of a County made a warrant *Ballivis suis*, to arrest the body of such a man, and the Bailiffs of the Liberty returned a Rescous; Exception was taken to it because it was *Ballivis suis*, and the return was made by those who were not his Bailiffs: but it was adjudged that the return was good, for that the Liberty might be within his Bailiwick. *Pasch.* 15 *Car. in B. R. Marsh.* 25.

Where return of Rescous made by Rebels, Enemies, *&c.* 7 *El. Dy.* 241. 33 *H. 6.* 1.

By

By the opinion of *Jennie*, 3 E. 4. If a writ be returned thus, *The answer of the sheriff of C.* and sheweth not the sheriffs name, it is no good return 9 E.4.19. *Br.*54. And by the 11 *H.*7.10.*a b.* the name of the County ought to be entred in the margent, or over the head of the return.

No good return where the sheriffs name is wanting. 9 E.4.19. Br. 54. 11 H. 7. 10. *a. b.*

In a *Scire facias* the sheriff returneth, *I have made known to* A. B. *in manner and form as this writ exacteth and requires*; and said not, *To the within-named* A B, *&c.* and yet this was holden *(per curiam)* to be good: for note, these words, *as this writ exacteth, &c.* do amount to *the within-named*, or *the within-mentioned*, or *written.* See 2 *H.*4.13. and 3 *H.*4.9 *Br.*28. *Fitz.*44.

Habere facias seisinam, upon a grant and render, at the *Plures* the sheriff did return *mandavi ballivo*, who did nothing, because the parties to the Fine had nothing, and the writ of Covenant was not sued in the Liberty, nor came to him to be executed, upon which a *non omittas* was awarded. 8 *E.* 3 12. Upon the like writ the sheriff returned, that he could do nothing by reason of the resistance of A B, and others; and he was amerced twenty marks, because he did not take *posse comitatus*, and an *Alias* awarded, and also a writ to attach A B; who was taken and pleaded not guilty, and prayed a writ against the sheriff to answer his false return. *Hil.* 19 E.2. *Execution* 147.

8 E.3.12. *Hil.* 19 E. 2. *Execution* 147.

Waste was assigned in *W*, the return must not be, *That he came unto* W, but, *that he came to the place wasted* 27 *H* 8. Br.2.

What return upon wast good, and what is not.

The sheriff returned, *That by vertue of a precept, &c. he took the body of* A B, *&c.* and exception was taken, because the return was not, *by vertue of a writ, &c.* yet it was holden to be a sufficient return; for the sheriff may take one in *Westminster-Hall* by the mandate of the Justices without any writ.

Return of a precept for writ, not good.

The sheriff returned, *I have not found the party, &c.* for, *he is not to be found*; and the party thereupon outlawed, assigned this for Error, and not to be amended. *Fitz.* 19.

No good return. Fitz. 19.

The sheriff returned, *that he hath commanded the* Bailiff *of Slaincliff*, in the third person; for, *I have commanded the* Bailiff, *&c.* in the first person, and was amerced for it. 21 *Ass.* 17.

A return by the sheriff in the 3 person, no good return

Habeas

Return amended. *Habeas Corpus* was returned, *Barthol. miles vic. & chael*, which was the sheriffs surname omitted, and it amended by rule. *Mob. rep. Kent. vers. Hall. fo.* 13.

False imprisonm. lies against the sheriff for not returning a Capias in proces,&c But otherwise in a Cap ad sat. &c. Co. 5. 90

If a sheriff do not return a *Capias* in proces, the is tortious, and an action of false imprisonment lieth against him by him that was arrested; and likewise Plaintiff shall have an action against him. *Littleton* 4. 9. *Br. Trespass* 339. *Br. false imprisonment*, 5. 7. & But if a *Capias ad satisfaciendum* be not returned, sufficient, if the execution be duly executed, and Plaintiff satisfied: yet if he levy the money or debt, neither returneth the VVrit, nor payeth the money to Plaintiff, he is chargeable to the Plaintiff in an action accompt, *&c.* and to the Defendant in an action of pass. *Co* 5. 90. And the Plaintiff may have his execu renewed against the Defendant, and the Defendants to his action against the sheriff.

VVhere a man hath liberty to return VVrits, (the Honour of *Pontefract* in *Yorkshire*, *&c.*) and to exe them, *&c.* if there the sheriff, or his Officer, shall the Liberty, and execute any proces there, the Lo the Liberty shall have an action of the case against *Fitz. Na Bre.* 95. *b.*

In a Scire fac. *&c. the sheriff must return the names of the Summoners, &c.* In a *Scire facias* to execute a Judgment or Fine, the riff must return the names of the Summoners. 3 *H. Br. Ret.* 86.

Upon the return of a Jury, he is to return issues up very person impannelled, and returned by him. *Ibid.*

The sheriff may take Posse comit. upon a Replevin. Upon a Replevin the sheriff returned, that the were in such a strong place, that he could not make verance; for which return he was amerced, becaus might have taken *Posse comitatus*, and so made deliver *B.* 119. or if he should return a resistance, the like 3. c. 39.

A Scire facias *against a husband and his wife, to say they are divorced, no good return.* In a *Scire facias* against the Husband and wife, the riff returneth that they are divorced, and therefore

s for perſons that are divorced may have garniſh-
t, *quære, & vide* 1 *H.*6.2. *Br.*63.

pon a *Fieri fac.* againſt Executors, the ſheriff return- *A Fi. fa.*
that they had ſold the goods of the party deceaſed be- *againſt*
the Writ purchaſed, *&c.* for which he was amerced; *execution*
he ſhould have taken other goods of the Executors, *no good*
e value thereof, *&c.* 14 *H.*4. 12. *Br.*41. *return, to*
ſay the
goods were ſold, before the writ purchaſed.

pon a *Fieri fac.* againſt Executors, the ſheriff return- Nulla bo-
ulla bona, &c. and upon this return an entry was *na return-*
dein the Roll, becauſe that *teſtatum eſt*, that the Exe- *upon a*
ors had ſold divers goods of the Teſtator, and convert- *Fieri fa.*
the money to their own uſe; a Writ was awarded to *againſt*
ſheriff, to enquire by the oaths of good men of his *Executors.*
liwick what goods (which were the Teſtators the day *An enqui-*
his death) were waſted by the Executors: by force of *ry of waſt,*
ich Writ the ſheriff had an Inquiſition, by which it *and found*
s found, that divers goods of the Teſtator, to the value *that di-*
the debt recovered, were waſted by the Executors: *vers goods*
d this was returned in Court; upon which the plaintiff *were wa-*
d a *Scire facias* againſt the Executors, to ſhew cauſe *ſted, upon*
herefore the execution ſhould not be awarded againſt *which a*
e Defendant of his own proper goods; and upon two *Scire faci-*
hils the Court awarded execution. *Co.*5 32. *as awarded, and*
upon two Nihil *returned, execution awarded.*

Execution of a Writ of Execution, as well at the ſuit
a common perſon, as at the Kings ſuit, is good without
turn of the Writ: for if a man be arreſted upon a *Cap.*
ſatisfaciendum, the execution is good, although the
riff do not return the Writ: And ſo in Writs of execu-
n, where the ſheriff only executes the ſame, as *Cap. ad*
ſatisfaciendum, Habere fac. ſeiſinam vel poſſeſſionem, Fieri
cias, Liberat. if the execution be duly made, it is good;
t if *Cap.* in proceſs be not returned, the arreſt is not
wful; for there the intent of the Writ is, to bring the
rty to anſwer the plaintiff; and in caſe of an *Elegit*, for
ere the extent is to be made by Inqueſt, and not by the
riff only; and the Writ ought to be returned, other-

wiſe

wise it is of no effect. In this case it was resolved, that when one hath a power of revocation, yet if he suffer a thing to be lawfully executed, as touching that, he cannot make any revocation: As if a man make a Letter of Attorney to another to do any thing before execution, he may revoke it; but after execution lawfully done, it cannot be revoked: If one to whom another is indebted is outlawed, and he that oweth the money payeth it to the King, and the Outlary is after reversed, yet the Creditor shall recover his debt against the party. If the goods of an outlawed person be sold by the sheriff upon a Cap. *utlagat.* and after the Outlary is reversed by Error, the Defendant shall have restitution of his goods; for the sheriff or Escheater, is not compellable to sell the goods, but may keep them to the use of the King, agreeing to the book 20 *Eliz. Dyer* 363. But if a sheriff by vertue of a *Fieri facias* sell the goods, and after the judgment be reversed by Error, the Defendant shall not have restitution of the goods, but the value of them for which they were sold; and the reason is, the sheriff is compellable by the debt of the goods of the Defendant; and therefore great reason that the sale should stand. *Cook 5 part. Hoes* case.

Outlawry returned in London *where not not good.*

An Outlawry returned in *London* in these words; *the* Hustings *holden in* Guild-Hall *in the City of* London (such a day) A B *exacted was, and appeared not*: this no good return, because there are two *Hustings* in London, the one of Common Pleas, the other is of Pleas of Land, and therefore in such case the return must be, *at the Hustings of the Common Pleas, &c.* otherwise it is invalid for that the same may have double intendment.

The County omitted in the return of an Exigent, erroneous.

An Exigent was returned, *At my County held at the Castle of Y. the first time exacted was, &c.* And because the County was not set down, it was holden erroneous.

the Sheriff return, that the party hath rendred him upon the Exigent, and hath not the body, he shall be ced.

Upon Exigent returned, that the party hath rendred himself, and not so, not good.

the sheriff return a *Cepi corpus* upon a *Capias ad sa-iendum*, and hath not the body, he shall not only be rced, but the Plaintiff may have his action against the iff for an escape, for so is he concluded by his return. et. 107.

Cep. corp. *upon a cap. ad satisfac. and not so, erroneous.*

upon process against the Husband and Wife, and the iff returns that he hath taken them, and the Husband ears at the day, but not the Wife, the sheriff shall be a-ced.

Process against the Husband and Wife, and the Wife appears not at the day, not good.

upon a writ to enquire of damages, the sheriff return-that the Enquest, or Jury, gave or found no damages, sheriff shall not be amerced for this default of the y; for the sheriff is but amerced where he return the writ falsly or insufficiently of himself, whereas e he returned it as the Jury had presented it. 44 E. 3. 3. 20.

Upon an enquiry of damages, return of damages, no hurt to the sheriff, and why? &c.

If the sheriff in a writ of account or debt, shall return one, *that he is not found, nor hath lands*, &c. *by which may be distrained*, &c. whereupon a *Capias* is awarded inst him, and he thereupon taken; whereas he had cient lands, or goods and chattels; then the party may e his action upon the case against the sheriff (directed the Coroners) for such false return.

Upon account or debt, where the sheriff returns no lands found, &c. *and he had lands*, &c. *not good.*

It is not good to return upon a Replevin, that there is such goods or chattels. 5 *H.* 7. 27. Or in a writ to de-er goods upon a *Detinue*, it is insufficient to say, that ere are no such goods. Or upon a *Habere fac. seisin.* ere is no such lands. *Ibid.*

To say upon a Replevin, that there is no goods &c. *not good. The like in* Detinue, &c. *Or upon* Hab. fac. seisinam.

A and his wife demandants against *I S* in Dower Free-hold in *Munden magna*, *Munden parva*; and D sheriff returned, *Pledg. de prosequend. I D*, *R R*; and names of the Summoners, *I D*, *R F*; and after the mons made, and by the space of fourteen daies, and before the return of the writ, at the most usual do the Church of *Munden magna*, where part of the ments lay, upon the 27th of *October*, being the Lords immediately after Service ended in that Church, he lickly proclaimed *all and singular things contained* in *writ*, to be proclaimed according to the form of the tute in that behalf made and provided. Exception was ken to the return, because that Proclamation was made at the doors of the Churches where the land is but it was sufficient to make Proclamation at any of Churches, by the opinion of the Court: but because said, he had caused to be proclaimed *all and singular the writ contained*; it was holden, that the return was sufficient, because he did not express what. *Hill.* 13 *C B Allen* and *Walters* case. *Brownlow* 1. *part.* 127.

Hab. fac. seisin in Dower ret.

Upon an *habere facias seisinam*, in a Writ of Dower the third part, the sheriff returned, that he offered to demandants the seisin of the third part of the tenem aforesaid, and shewed to the parties what made the t part by mets and bounds incertain, according to the of the writ; and they refused to receive them of him. was the opinion of the Justices, that the entry of the mandants was now lawful; and although exception taken to the return, that it was incertain, and not good repugnancy, yet upon the return being read and view was allowed to be good; and the Court refused to aw an *habere facias seisinam de novo*; for that they said wo be a new president, the like of which was not seen. *M* 11 *Eliz. Dyer* 278.

Upon an *Extendi facias*, upon a Statute-staple out of Chancery, the sheriff extended the lands of the Def dant, and he prized the goods, and seized them into t Kings hand, according to the writ, but did not deli them. Afterwards, a writ of Prerogative came out of *Exchequer*, commanding the sheriff to levy 100 l. wh the Defendant owed the Queen upon his goods; and he had not sufficient goods, then to extend the land: wh

it was delivered to the ſheriff after the day of the re-
n of the firſt writ; but the firſt writ was not return-
and the ſheriff returned the whole matter aforeſaid
o the *Exchequer*: And the ſheriff was amerced for ma-
ng ſuch ſpecial return, and was forced to execute the
rit of Prerogative; for it was holden by the Court, that
til a *Liberate*, no property was in the Conuſee: But it
as ſaid, that the goods being ſeized into the hands of the
ing for the uſe of the party, they were priviledged
om all other executions, but that of the King only. *Mic.*
E. 6. *Dyer* 67. *Stringfellowes* caſe.

Note, it was reſolved and adjudged, that when judg-
ent is given againſt Executors, and upon the *Fieri faci-*
the ſheriff returns *nulla bona*, that the plaintiff may
ave a ſpecial Writ of *Fieri facias, ſcil.* That the ſheriff
evy the debt of the goods of the deceaſed; *Et ſi ſibi con-*
are poterit, that the Executors have waſted the goods,
hen of their own goods, becauſe that in ſuch a caſe, if
he ſheriff make a falſe return, the party may have his re-
medy by an action upon the caſe. *Cook* 5 *part.* 39. *Petti-*
fers caſe.

Matthew Herbert acknowledged a Recognizance to the
King of 3000 l. and dies; after his death, a *Scire facias*
iſſued forth againſt the Executors *Teſtamenti & ultimæ*
voluntatis prædict. Mathæi *& hæred. terrarum & tenemen-*
torum quæ ſua fuerint; and at the day the ſheriff return-
ed, that he had not Executors; but *Scire feci* Willielmo
Herbert *Militi & hæred. dict.* Mathæi *quod ſit, &c. Will-*
liam made default, and judgment upon that default was
given for the King, *quod recuperet verſus dict.* Will. Her-
bert, *&c.* And thereupon error was brought, and three
errors aſſigned. 1. That the *Scire facias* was *hæred. terra-*
rum & tenementorum, which was improper, and againſt
Law; alwayes one is ſaid Heir to his Anceſtor, and not to
the land; and it cannot be ſaid, that he is *filius*, or *con-*
ſanguineus, & hæres Manerii de D. 2. Admitting the writ
good, then foraſmuch as the writ requireth, *Quod Scire*
facias hæred. terrarum & tenementorum, &c. And the re-
turn of the ſheriff, *quod* Willielmo Herbert *Militi fil. &*
hæred. prædict. Mathæi, is not good, becauſe he doth not
return him Heir of any lands or tenements; for his war-
rant is not to ſummon the Heir of the ſaid *Matthew*, but
the

the Heir of the lands and tenements of the ſaid *Matthew* and each return ought to anſwer the point of the writ 3. Admitting the writ and the return good, yet the judgment was not good, becauſe it was general, where it ought to have been ſpecial, for by ſuch judgment his own lands ſhould be charged: But theſe points were not reſolved by the Court. *Cook* 3 *part.* 15. Sir *William Herbert's* caſe.

If the ſheriff return Cepi corp. *he ſhall be chargeable with the body at the day of the return.*

If the ſheriff return upon any perſon, *I have taken the body of*, &c. or *he hath rendred himſelf*, &c. the ſheriff ſhall be charged to have the bodies of the ſaid perſons at the daies of the returns, or the writs of precepts, &c. 23 *H.* 6. *cap.* 10. And ſo was the Priſtine Common Law of this Nation.

Note. *Br. attach.* 15. 6.

Note, that all proceſs againſt any perſon, directed to the ſheriff, ought to be duly and truly executed fifteen daies before the return of the writ, *Br. attach.* 15. 6. and returned into ſuch Courts, out of which ſuch proceſs ſhall be awarded.

I ſhall not trouble you with many forms of Returns being already amply performed by Maſter *Kitching* in his Juriſdiction of Courts; only take theſe few ſelect ones which follow.

The return of a Non eſt inventus.

INſra nominat. A B non eſt invent. in Balliva mea.

R S Ar. Vic.

The return of a Cepi corpus *in the Common Pl.*

Virtute hujus brevis cepi corpus infra nominat. A B, cujus corpus coram infra mentionat. ad diem & locum infra content. parat. habeo, prout interius mihi præcipitur.

R S Ar. Vic.

Virtute

Virtute hujus brevis cepi corpus infra nominat. A B cujus corpus coram Dom. Rege ad diem & locum infra content. parat. habeo, &c. prout interius mihi præcipitur.

R S Ar. Vic.

The return of a Cepi corpus in the Kings Bench.

Virtute hujus brevis cepi corpus infra nominat. A B cujus corpus coram Justic. infra mentionat. ad diem & locum infra mentionat. parat. habeo, prout interius mihi præcipitur: & ulterius certifico eisdem justic. quod ceter. defend. non sunt invent. in balliva mea.

R S Ar. Vic.

The return of a Cepi corp. and non est invent.

Virtute istius brevis cepi corpus infra nominat. A B cujus corpus adeo languidum, debile & infirmum in prisona sub custod. mea remanet, quod ob metum mortis ejusdem A B corpus ejus coram justic. infra mentionat. ad diem & locum interius content. habere non possum, prout per hoc breve mihi præcipitur.

R S Ar. Vic.

The return of a Cepi corp. & languidus in prisona.

Pro executione hujus brevis mihi direct. faciend. mandavi ballivo libertatis Hundred. de B in Com. meo, qui plenam habet execution. omnium brevium, warrant. mandat. & præceptorum exequend. infra libertatem prædictam, & retorn. eorum infra quam libertatem executio hujus brevis totaliter restat faciend. quiquidem Ballivus, scilicet, I W Miles (*if there be no return of the sheriffs warrant, or an insufficient return made, then thus,* scilicet) nullum mihi dedit responsum.

The return of a mandavi Ballivo libertatis, where the Bailiff maketh no return of the sheriffs warrant, or where he makes an insufficient return.

But if the Bailiff of the Liberty return that he hath taken the body of C D then thus, scilicet, qui mihi respondit quod cepit corpus infra nominat. C D cujus corpus coram justic. interius mentionat. ad diem & locum infra content. parat. habet, prout per hoc breve præcipitur.

R S Ar. Vic.

And also where he returneth to the sheriff he hath taken the body, and the like, in case the Bailiff returneth a languidus in prisona, or as he shall certifie the sheriff by his return.

The return of a Scire *fac. where a* Scire *fac. is returned.*

Virtute hujus brevis mihi directi, T G & I H, per probos & legales homines Ballive mei, ſcire feci infra nominat. A B quod ſit coram Juſtic. interius mentionat. ad diem & locum infra content. ad oſtend. &c. prout interius mihi præcipitur.

R S Ar. Vic.

The return of a Nihil *to a* ſc. fa.

Infra nominat. A B nihil habet in Balliva mea per quod ei ſcire facere poſſum, neq; eſt inventus in eadem.

R S Ar. Vic.

Return Scir. fac. *for one, and* Nihil *for the other.*

Virtute hujus brevis mihi direct. per T G & I H probos & legales homines de Balliva mea, ſcire feci infra nominat. A B quod ſit coram Juſtic. infra mentionat. ad diem & locum interius content. ad oſtend. &c. prout interius mihi præcipitur: & ulterius certifico eiſdem Juſtic. quod alter. defend. nihil habet in Balliva mea per quod ſcire facere poſſum, neq; eſt inventus in eadem.

R S Ar. Vic.

The return of an Attachment and Procl. in Chancery

Infra nominat. A B non eſt invent. in balliva mea in omnibus locis in balliva mea, tam infra libertates quam extra publicem proclamari feci quod infra nominat. A B perſonalit. compareat coram Dom. Rege in Cancellar. ſua infra ſcript. ad diem & locum infra content. ad reſpondend. Dom. Regi de quodam contempru, & ulterius ad faciend. & recipiend. quod eidem Cur. in hac parte videtur expedi-ens, prout per hoc breve mihi præcipitur.

R S Ar. Vic.

A Nihil r. *of a* Ven. fac. *upon an Indictment, preſentment, or information. A ſummons return'd of the like.*

Infra nominat. A B nihil habet in balliva mea per quod attachiari poteſt.

R S Ar. Vic.

Infra nominat. A B attach. eſt per pleg. *Johan. Doe, Rich. Roe.*

R S Ar. Vic.

Manucap

Manucapt. infra nominat. A B *The return of a distring. nup. vic. or Balliv.*

Johannes Doo,
&
Richardus Roo.

Exit. — 10 s.

R S Ar. Vic.

Execution. istius brevis patet in quadam panell. huic brevi annex. *The return of a Ven. fac. jur.*

R S Ar. Vic.

Nomina Jurat. inter A B quer. & C D def. de placito transgr. *The pannel.*

E F de G Gen.
H I de eadem
K L de M
And so to the number of 24.

Quilibet Juratorum præd. per se seperatim attachiat. est

per pleg { *Johannes Doo,* & *Ric. Roo.*

R S Ar. Vic.

Executio istius brevis patet in quadam panelle huic brevi annex. *The return of a distringas, or a Hab. cor. jur.*

R S Ar. Vic.

Nomina Jurat. inter A B quer. & C D def. de placito transgr.

E F de G Gen.
H I de eadem
K L de M
And so to the number of 24.

Quilibet Jurat. per se seperatim attachiat. est

per pleg. { *Johannes Doo,* & *Ric. Roo.*

Exit. eorum cujuslibet x s.

R S Ar. Vic.

The return of an Exigent where one bringeth a sup. one rendreth himself, the other appeareth not.

Ad Com. meum N apud L. in dicto Com. octavo die Januar. Regni Dom. Regis infra script. xiiii, infra nominat. A B, C D, & E F. primo exact. fuer. & non comparuer. nec aliquis eorum comparuit; & ad Com meum ibidem tent. primo die *Febr.* anno xiiii Regis prædict. secundo exact. fuer. & non comparuer. nec aliquis eorum comparuit & ad Com. meum ibidem tent. primo die *Marcii* anno supradicto tertio exact. fuer. & non comparuer. nec aliquis eorum comparuit; & ad Com. meum ibidem tent. secundo die *April.* anno ult. prædicto quarto exact. fuer. & non comparuer. nec aliquis eorum comparuit; & ad Com. meum ibidem tent. primo die *Maii* anno xiiii ult. prædicto quinto exact. fuer. prædictus A B protulit mihi breve Dom. Regis de supersed. & est huic brevi annexus adeo versus eundem A B ulterius procedere non potui: & prad. C D se reddit in custodiam meam, cujus corpus coram Justic. infra script. ad diem & locum infra content. parat. habeo, prout interius mihi præcipitur; & prædictus E F non comparuit: ideo per judic. I K & L M Gen. Coron. Dom. Regis Com. præd. prædictus E F utlagat. est.

R S Ar. Vic.

The return of a Proclamation.

Ad Com. meum N tent. apud L in Com. N primo die *Febr.* anno Regni Dom. Regis infra script. xiiii, & ad General. session. pacis tent. apud G in Com. prædicto xx die Apr. anno supradicto, & ad max me usuale ostium Ecclesiæ Parochial. de E infra script. super diem Dominicum, scil. licet, x diem *Apr.* anno xiiii Regis prædict. publice proclamari feci, prout interius mihi præcipitur.

R S Ar. Vic.

The return of an Allocat.

Allocat. illis quatuor Com. ad quos infra nominat. A B, C D, & E F, quater exact. fuer. & non comparuer. nec ad Com. meum N tent. apud L in dicto Com. N prædict. A B, C D, & E F, quinto exact. fuer. & non comparuer. ideo per judic. I K & L M Gen. Coron. Com. prædicti utlagat. sunt, & quilibet eorum utlagat. est.

R S Ar. Vic.

Return of a Tarde.

Istud breve adeo tarde mihi deliberat. fuit, quod propter temporis brevitatem executionem inde facere non potui.

R S Ar. Vic.

Infra

Infra nominat. A B capt. fuit per R C mil. Baronett. super Vic. Com. mei N & non per me modo Vic. ejusdem Com. *The return of Hab. cor. where the def. was taken by a former sheriff.*

R S Ar. Vic.

Virtute istius brevis mihi direct. posui coram Justic. infra specificat. ad diem & locum interius content. loquel. quæ est in Com. meo per breve dict. Dom. Regis inter infra nominat. partes sub sigillis *A B*, C D, E F, & G H, quatuor legales homines Com. mei qui Recordo illo interfuer. prout patet in quadam Schedula huic brevi annex. & scire feci infra nominat. I K quod adtunc & ibidem parat. sit ad prosequend. loquel. inde versus infra nominat. T W ac etiam habeo ibidem aliud breve huic brevi & Scedulæ annex. *The return of a pone.*

I G Ar. Vic.

S. ff. Ad Com. meum tent. apud I in dicto Com. meo 11 die anno Regni dict. Dom. Regis xiii. *The Scedule.*

ff. I R quæritur versus T W de placito debiti.

I G Ar. Vic.

Virtute istius brevis, per C D & F G probos & legales homines de balliva mea scire feci infra nominat. L S, I L, &c. quod sint coram dicto Dom. Rege ad diem & locum infra content. ad ostend. &c. quare. *Return of a Sci. fa. for the release of prisoners.*

Infra nominat. G S nihil habet in balliva mea per quod scire facere possum, neque est inventus in eadem, neq; sunt alli tenentes, sive ullus tenens aliquarum terrarum sive tenementorum quæ fuer. infra nominat. W super diem infra script. judicii infra reddit. vel unquam postea in balliva mea, quibus scire facere potui, prout breve illud exigit. *Return of Nihil to a Scir. fac. against the heir and ter-tenants.*

I G Ar. Vic.

Pleg. de prosequend. { *Jo. Doo,* & *Ric. Roo.* } *The return of a summons in Dower.*

Summon. infra nominat. A B { *Anth. Sharp,* & *Ric. Sharp.* }

Et ad maxime usual. ostium Ecclesiæ Parochial. de ubi infra nominat. *A B* inhabitat, super diem Domi cum, scilicet, quartum diem *Junii* anno infra script. in mediate post celebration. divin. servic. in eadem Eccles fuit, publice proclamari feci, secundum form. statuti, &c.

R S *Ar.* Vic.

The return of a grand Cape in Dower.

Virtute istius brevis mihi direct. xxvi die *Apr.* anno in fra script. cepi in man. dict. Dom. Regis per visis H R & T R proborum & legalium hominum de balliva mei, ter tiam partem messuag. terrarum & tenementor. infra men tionat. cum pertin. prout interius præcipitur.

Summon. infra nominat. *A B* } *Jo. Den,* & *Ric. Fen.*

R S *Ar.* Vic.

Pleg. de prosequend. } *Jo. Doo,* & *Ric. Roo.*

The return of a summons upon an original against an heir.

Summon. infra nominat. *A B* fil. & hæred. A. B. } I W & E W.

R S *Ar.* Vic.

The return of Hab. fac. possessionem, & cap. *where judgment is signed with costs.*

Virtute istius brevis deliberari feci eidem *A B* possessionem suam termin. infra specificat. de messuag. terris & tenementis infra specificat. *Ac* etiam cepi corpus infra nominat. C D cujus corpus coram Justic. infra script. ad diem & locum interius content. parat. habeo, prout interius præcipitur.

And where the Defendant is not found, then close thus: Et ulterius certifico Justiciar. infra specificat. quod infra nominat. C D non est invent. in balliva mea.

R S *Ar.* Vic.

Virtute hujus brevis deliberati infra nominat. I G Manneria, Meſſuag. Parc. Boſc. ac omnia & ſingular. terr. & tenementa cum pertin. infra mentionat. habend. ſibi & aſſign. ſuis tanquam libera tentum ſuam quouſq; plenar. ſatisfact. erit de debito infra mentionat. cum damnis, miſis & cuſtag. rationabiliter ſuſtent. prout per iſtud breve præcipitur. Et ulterius certifico dicto Dom. Regis, quod infra nominat. R W non eſt invent. in balliva mea. *The return of a Liberate out of Chancery.*

R S *Ar.* Vic.

Virtute iſtius brevis mihi direct. in forma infra ſcript. in plena Cur. recordari feci loquelam infra mentionat. & Recordum illud prout patet in Scedul. huic brevi annex. coram Juſticiar. infra ſcript. ad diem & locum interius content. parat. habeo ſub ſigillo meo & ſigillis R C, M C, T Y, & R E, quatuor proborum & legalium hominum de balliva mea, ex illis qui Recordo ill. int. fuer. & partibus infra ſcript. diem illum præfixi, quod tunc ſint ibi parat. in loquela illa prout juſtum fuerit proſecutur. ſecundum exigent. iſtius brevis. *The return of an Acced. ad cur*

R S *Ar.* Vic.

B. ff. *A* pud Cur. Hundred. de B tent. apud C xii die *A* anno Regni dict. Dom. Regis xiiii in eadem Hundred. coram I K, & L M, liberis ſectatoribus ejuſdem Hundred. *The Scedule.*

B. ff. *A* B quæritur verſus C D de placito captionis & injuſte detentionis bonorum & catallorum.

R S *Ar.* Vic.

Virtute iſtius brevis mihi direct. in pleno Com. meo N tent. apud N. in Com. meo prædicto xii die *A* anno Regni dict. Dom. Regis xiiii, recordari feci loquel. int. partes infra ſcript. (unde infra fit mentio) quæ loquel. patet in quadam ſcedul. huic brevi annex. & record. illud coram Juſtic. infra mentionat. ad diem & locum infra content. parat. habeo, ſub ſigillo meo, & ſigillis W H, L E, I B, & T C, quatuor legalium liberorum tenentum ejuſdem Com. ex illis qui recordo ill. inter fuer. & partibus infra ſcript. diem ill. præfixi quod tunc ſint ibi parat. in loquel. *The return of a Re. ſa. lo.*

illa prout justum fuerit prosecutur. prout istud breve in se exigit. R S Ar. Vic.

The Scedule.

N. ss. Ad Com. meum N tent. apud I infra Com. prædict. xii die April. anno Regni dict. Dom. Regis xiiii, coram I G H K liberis tenentibus ejusdem Com. inter al. sic continetur.

N. ss. F I queritur versus F S de placito captionis & injuste detentionis averiorum suorum.

R S Ar Vic.

Return averia. elongat. and cepi corpus for damages.

Ante advent. istius brevis equa infra mentionat. per infra nominat. G H elongata fuit ad loca mihi incognit. ita quod equam prædict. infra script. I N & H retorn. non potui sicut interius mihi præcipitur; & ulterius infra mentionat. Justiciar. certifico, quod virtute istius brevis cepi corpus infra nominat. G H cujus corpus coram dictis justiciar. ad diem & locum infra content. parat. habeo, prout interius mihi præcipitur. R S Ar. Vic.

The writ.

Executio istius brevis patet in quadam Scedul. huic brevi annex. R S Ar. Vic.

The Scedule.

The return of a Rescous.

Virtute istius brevis mihi direct. & huic brevi annex. quoddam warrant. feci cuidam W R ballivo meo ad arrestand. & capiend. I S in dicto brevi nominat. quiquidem ballivus meus virtute warrant. mei predict. 11 die Febr. anno Regni Dom. Regis infra script. xiiii, apud B in Com. meo arrestavit, & cepit corpus prædict. I S prout per warrant. meum præcipitur; & eodem *Johan.* sic arrestat. capt. & in custod. ut prædicitur, sub prædict. arrest. existend. quidam G S de B prædict. simul cum præd. I S vi & armis, videlicet, gladiis, baculis & cultellis in ipsum prædict. W R ball. meum adtunc & ibidem insult. fecer. & ipsum verberaver. vulneraver. & maletractaver. ita quod de vita ejus desperabatur; & prædictus G S ipsum I S sic ut prædicitur sub prædicta arrestat. existend. adtunc & ibidem extra custodio meo cepit & rescussit, & ad sui juris ad largum ire permisit; & idem I S sicut prædicitur sub arrestat. existend. extra custod. mei similiter vi & armis adtunc & ibidem seipsum rescussit, contra pacem dict. Dom. Regis, &c. Et postea idem I S non est invent. in balliva mea.

The custody of my said Bailiff.

R S Ar. Vic.

Return

Return of Jurors.

HE muſt return ſix Jurors where the Venue lieth, if there be ſo many within the Hundred, *viz.* within the place where the demand is made; yet by the Stat. 27 *Eliz. cap.* 6 upon the tryal of an iſſue joyned in any perſonal action, if two ſufficient Hundreders do appear it is ſufficient: He muſt return their names, and a true addition of their dwelling places, or ſome other addition by which the party may be known.

If two ſufficient Hundredors do appear it is ſufficient. Stat. 27. El. cap. 6.

The ſheriff without a *Non omittas* may impannel a Jury of men living in a Franchiſe. 22 *R.* 2. *Challenge* 177.

None are to be returned above the age of 70 years, &c. 21 E. 1.

No perſons are to be returned above the age of 70 years, nor perſons of a languiſhing ſickneſs or diſeaſe at the time of their ſummons; no alien infant under the age of fourteen, Clergy men, or Miniſters. *Lamb.* 382. *Fitz.* 165. *d.* 166. *a. d.*

None ſhall be impannelled out of their proper County, except they have in Lands and Tenements 40 s. per annum of eſtate of Free-hold within the County where the iſſue is to be tried. F. N. B. 166. *d.*

None ſhall be impannelled upon a Jury for tryal of any matter out of their own proper County, except ſuch Jurors may ſpend in Lands and Tenements 5 l. *per annum*, nor to try any matter within the County, except they have in Lands and Tenements 40 s. *per annum* of eſtate of Free-hold within the County where the iſſue is to be tried. *F. N. B.* 166. *d.* But after the Statute 27 *Eliz. cap.* 6. None are to be returned for the tryal of any iſſue in the Kings Bench, Common Pleas, Exchequer, or before the Juſtices of Aſſize, but ſuch as have eſtate of Free-hold in Lands, Tenements or Hereditaments of the clear yearly value of 4 l. at leaſt, out of ancient Demeſne.

None to be returned but ſuch as have 4 l. per ann.

24 Jurors muſt be returned, otherwiſe error. Co. 5 *Rep.* 36. & 37.

Though the current of the *Venire facias* be but to return *Duodecem bonos & legales homines*, yet muſt he return twenty and four; if he return but three and twenty, and twelve appear and give their verdict, this is error. *Co.* 5. 36. & 37.

He must summon the grand Juries to the assizes, and Juries for the quarter-sessions, &c.

He is to summon and return the Grand Jury to the Assizes, and the Juries for the Quarter-Sessions of the peace and is to array his pannel six daies (at the least) for the special assizes, and before the Sessions of the Justices, so that view and copies of the pannels may be had if they be required; which copies must be indented by the sheriff and delivered to the plaintiffs, defendants, or tenants.

None must be returned upon an Indictment but, &c. probi & legales homines.

Upon an Indictment he ought to return none but *probi & legales homines*, *viz.* such as are not attaint by Law. *Decies tantum*, subornation of perjury, concealment, such as are not outlawed, abjured, condemned in a *Premunire*, or attaint of Treason, felony, *&c.* 11 *H.* 4. *cap.* 9.

Return of Issues.

He must return good issues.

HE is to return good sufficient and reasonable Issues, and upon such persons as have sufficient goods and lands, according to the stat. of *Westminst.* 2. *cap.* 39. & *E.* 3 *cap.* 5.

Of Escapes, and what damage doth occur to the Sheriff by them.

The sheriff must elect an honest Gaoler.

THe sheriff ought to be very cautious in electing a vigilant and honest Gaoler, and such a one as is able to give sufficient security for his indempnity and true performance of his office, and to answer all escapes; for of all the officers that appertain to the sheriff, the Gaoler ought to be most circumspect, otherwise many escapes would happen. And first, to define what an Escape is.

It is (here to be understood) where one that is arrested and imprisoned in the common Gaol of the County, and cometh to his liberty before that he is delivered by the award of any Justices, or by order of Law. If the imprisonment of him that escaped were for felony, then that shall be felony in him that did voluntarily (not otherwise) suffer the escape; and if for treason, then it shall be treason in him; and if trespass, then trespass, *&c.* *What an escape is. For felony, it is felony in him that suffers the escape, &c.*

Although the prisoner which escapes be out of the view yet if fresh suit be made, and he be reprized *in recenti insequutione*, he shall be in execution; otherwise at the turning of a corner, or by an entry of an house, or by any other such means the prisoner may be out of view. *Co.* 3. *Rep.* Rigweys *case.* *If a prisoner escape, yet upon fresh suit, and taken, he shall be in execution.*

If the sheriff doth assent, that one who is in execution, and under their custody, shall go out of the Goal for a while, and then return, although that he return in the time, yet this is an escape; for the sheriff ought to guard him *in salva & arcta custodia*; and the Statute of *Westm.* 2. c. 11. saith, *quod carceri mancipentur in ferris.* So that the sheriff may keep such as are in execution in irons and fetters, till they have satisfied their Creditors. *Co.* 3. Boytons *case.* *Idem sup. Lit. fo.* 260. 13 *E.* 1. c. 11. 2 *R.* 2. c. 12.

It is adjudged, if one be in execution, no commandment although of the King himself, without writ, is a sufficient warrant to discharge the Gaoler, and so by the same reason shall not discharge the sheriff. Plowd 360. a. *The King cannot command without writ, to free a man, &c.*

A recovered upon a plaint in *London* against B, and had him in execution in *Ludgate*. *A* died intestate: *B* was permitted by the Keeper of the Goal of *Ludgate*, to go at large into *Southwark* with *I S* the servant of the Keeper, and that by the commandment of the Keeper. The administrator of *A* brought debt against the sheriff of *London* upon the escape: It was adjudged by all the Barons of the Exchequer, that it was an escape: and when the prisoner came into *Surrey*, he had not any keeper as a prisoner for the debt, for that he that waited upon him in the County of *Surrey*, could not be officer to the sheriff of *London*; for the power of every sheriff extends not beyond his own County, unless it be in special cases: and it was holden in this case, that this voluntary suffering him to go into another County, when the keeper or servant waited upon him there, the party might have an action

ction of false imprisonment against him. *Pasc.* 3 E. *Plow. Com. Plat.* and the sheriff of *Londons* case. 36 vi. 3 E. 6. *Dyer* 166.

If Traytors be imprisoned under the custody of the Gaoler, and afterwards they break the prison and escape the same discharges not the Gaoler, but he shall be charged with the escape: but it is otherwise of the Kings enemies, for in the one case he hath his remedy over, but in the other not. *Vide Coo.* 4 *part.* 84. *Southcotts* case. *Vide* 3 *E.* 6. *Dyer* 66.

A man was arrested upon a *Latitat* for 100 l. the plaintiff intending upon his appearance and bail put in, to declare against him for the same debt; and being arrested by the old sheriff, who returned *languidus, &c.* and yet left him in prison, the new sheriff suffered him to go at large without finding sureties for his appearance; whereupon he brought his action upon the case against the sheriff upon the escape: upon *Non. cul.* pleaded, this matter was found. It was adjudged for the plaintiff; for this permission to escape was a just cause of action, for by this means the plaintiff is defrauded or delayed of his action *Trin.* 12 *Jac. in B R. King*, and Sir *Eusebie Andrews*'s case. *Cro.* 2 *part.* 380.

In debt upon an escape, it was holden by all the Justices, that if a prisoner in execution escape, and the Gaoler make fresh suit, and before the re-taking the party bring his action against the Gaoler: Now the gaoler may not take the prisoner, as to be in execution again for the party, but only for his own indempnity. But if the party doth not bring his action, then the gaoler may re take the prisoner, and he shall be in execution again for the plaintiff. *Hill.* 43 *Eliz. in B R in Goldesbr.* 180.

If a man escapes with the consent of the gaoler, he cannot re-take him; if he doth, the other for his discharge shall have an *Audita querela. Coo.* 3 *part.* 52. *Ridgemays* case.

Action upon the case was brought against the sheriff of *Middlesex*, for suffering one to escape who was arrested upon a bill of *Miadlesex* for 33 l. The defendants pleaded, that after the arrest, leading him towards *London* to the gaol, he was rescued from their Bailiffs by I S and I D; it was adjudged, that the arrest being upon mean process, and not upon execution, the sheriffs are not bound to take

poss

se comitatus with them; and therefore upon such pro-
fs a Rescous is a good return, and the sheriffs or Bai-
ffs are not chargeable upon an escape: but upon a *Capi-*
as ad satisfaciendum, or *Capias utlagatum* after judgment,
ch return is no excuse for the sheriff, for at his peril
e ought to keep his prisoners taken in execution: for
here the Process is determined, and being executed, the
rty can have no new Process; but in the other case,
here is not any great mischief, for the party hath only
ost his Process, which he may renew, as also have an
ction upon the case against the Rescussors: it was ad-
udged for the Defendants. *May*, and *Proby*, and *Lumley*,
heriffs of *Middlesex*'s case. *Pasc.* 13 *Jac. in B R. rot.*
01. *Cro.* 2 *part.* 419.

It was holden by the Justices in the Kings Bench, that if a man be arrested by vertue of a *Capias ad satisfaciendum*, or a *Capias utlagatum* after judgment, and a Rescous is made at the same time, by reason of which the party arrested escapes, that the sheriff shall be charged for the escape, with the whole debt, and he shall have his remedy over against the Rescussor by an action upon the case. *Trin* 7 *Eliz. Dye* 241. *vide* 16 E. 4. 2 *dy* 3. But note, *Pasc.* 15 *Car. in B R.* It was agreed by the Justices, that if the sheriff doth arrest a man upon a Meine process, and return a *Cepi corpus*, and that the defendant was rescued, that no action lieth against the sheriff; but if the party be taken upon an execution, and be rescued, an action upon the case will lie against the sheriff. *Vide Marsh. Pasc.* 15 *Car. in B R* 1.

If the she-
Where the sheriff dieth, and one in execution, break- *riff die,*
eth the Gaol, and goeth at large, this is no escape; *and one*
for when a sheriff dieth, all the prisoners are in the cu- *breaks the*
stody of the Law, until the election of a new She- *gaol, no e-*
riff *scape, &c.*

If a woman be Warden of the Fleet, and a prisoner in *If a wo-*
the Fleet marrieth her, this shall be judged an escape in *man gaol-*
the woman, and the Law judgeth the prisoner to be at *er marri-*
large. *Plow. Comment. Plats* case. *eth a pri-*
soner, adjudged an escape. Plow. com. Plats *case.*

If

It is no escape, if prisoners be removed out of the County, that they may be removed to another place within the same County; but not for their ease, for then it is an escape.

If the sheriff remove his prisoners out of the County without being commanded, it is an escape. But if he remove them from one place to another in his County as he changes his Goal, it is no escape; but if he remove his prisoners for their ease and delight in the same County, it is an escape: the case was cited by *Harvey*, *Mich.* *Char. Com. Banc.* That the sheriff went with his prisoners to a Bear-baiting in the same County, and it was adjudged an escape. And *Hutton* Justice said, that if a sheriff permit his prisoners to go to work for their benefit, it is an escape. And the question was, if in an *Audita Querela* for a voluntary escape of one in execution, there should be bail; and the opinion of the Court was, that if it appears, that the cause upon which the *Audita Querela* is grounded, is called a good proof by the Record, and that he should not be bailed, unless good and special bail. Mich. 3 Car. com. Banc.

The sheriff upon fresh suit may take a prisoner in another County.

If a prisoner of his own wrong escape and flie into another County, the sheriff, or his officers upon fresh suit may take him again. See *Dalton's office of sheriffs.*

No felony in the Gaoler to kill a prisoner that attempteth to escape, &c.

If a prisoner in the Gaol attempteth to escape, and having broken his irons, striketh the Gaoler (coming in the night to his prisoner) and the Gaoler slayeth him, it is no felony. 22 *Ass* 35.

All prisoners ought to be kept in salva & arcta custodia. 13 *E.* 3. *Fitz. tit. bar. plac.* 253.

An action of debt was brought against a Gaoler for an escape, who said that the sheriff did not deliver him lawfully to him; and it was therefore ruled, 13 *Edw.* 3. *Fitz. tit. Bar. plac.* 253. That he shall not take benefit, nor any notice whether he was lawfully delivered to him in execution, or not? But he being once in his custody, he ought to keep him *in arcta & salva custodia*, *sub salva* for the Gaoler, and *arcta* for the party, the Plaintiff, the party by this being coarcted to pay the debt.

Mich. 12 *Jac.* An action upon the case was brought against the sheriff of N for an escape upon *Not guilty* pleaded; all the special matter was found and shewed to the Court, which was this, That a *Capias* did issue to the sheriff to take one (*John*) which was by a wrong name, and the sheriff returned a *Non est inventus*; and upon this a *Testatum* issued out to him, and therein named him by his right name; upon this the sheriff took him, and had him in execution, and afterwards suffered him to escape. The whole Court agreed, that the sheriff is answerable for this escape, notwithstanding the first *Capias* was by a wrong name, for he was taken and suffered to escape: here upon *Not guilty* pleaded, the special matter was found, and shewed that the first *Capias* was by a wrong name; yet the Court was clear of opinion, that he being taken, and in execution by his right name, though the first *Capias* was erroneous, and not right, the sheriff shall be chargeable for this escape clearly; and so by the rule of the Court judgment was given for the Plaintiff.

Mich. 12 Jac. *One taken upon a* Capias *by a wrong name,* &c. *a* Testat. *issued out against him by his right name, and was taken in exec. and suffered him to escape, and the sheriff was judged answerable for the escape.*

I think it very pertinent to our subject matter, (and 'tis well worth observation) to transcribe *Whitings* case against Sir *George Reynell*, Marshal of the Kings Bench, in the second part of *Crooks* Reports, *fol.* 657. and 658. *viz.* Debt for 202 pounds; whereas he recovered against *Thomas Abingdon*, and *Mary* his wife, in trespass for damages, 202 pounds, and the said *Mary* was committed in execution to the Defendant upon this judgment; That the Defendant, 24 *Novemb.* 16 *Jac.* suffered her to go at large whither she would, his debt not being satisfied, *per quod actio accrevit.* The Defendant pleaded, that she brake prison and escaped, and he freshly followed her, and took her again, 21 *Octob.* 17 *Jac.* in fresh suit, and had her in execution, and yet hath her, *&c.* Whereupon the Plaintiff demurred; and it was now argued, that this plea was not good, because the escape is alledged 24 *Novemb.* 16 *Jac.* and the action is brought *Pasch.* 17 *Jac.* And this reprisal is alledged a year after the escape, and after the action brought. For it was alledged, although

Crook 2. *f.* 657. & 658. *Whitings* case. *A mans wife taken in execution, and suffered to go at large before the debt satisfied, judged an escape.*

A repriſal by freſh ſuit before the action brought, excuſable, but a repriſal after the action brought, no excuſe.

though a repriſal by freſh ſuit (if it had been before the action brought) would peradventure have excuſed him; yet being after the action brought, ſo as the Plaintiff at the time of the action brought had good cauſe to have the action, the Repriſal after ſhall not excuſe him; and compared it to waſte brought for reparations, which is amended pendant the writ, it ſhall not excuſe him. So here.

Coo. 3. f. 52

And in proof thereof were cited *Coo. 3. fol. 52. Ridgeways* caſe. 23 E. 4. 8. 13 *Edw. 3. tit. Barr.* 253. But againſt this it was argued, that this repriſal being alledged to be by freſh ſuit, and before the plea pleaded, is good for the time, and he ſhall take advantage thereof to excuſe the eſcape: For it is upon the matter no eſcape, when ſhe was re-taken by freſh ſuit; for that is a continual purſuit, and the Law ſhall adjudge her in priſon alwayes. And it is not like the caſe of waſte; for there nothing was done after the waſte committed, before the action; and there reparation hath not any relation, nor is the continuance of any former act: but this repriſal hath relation, and makes it no eſcape, *ab initio*. As a Diſtreſs taken for rent, and reſcued, and driven into another Mannor, which is purſued and re-taken, the party ſhall make his avowry of the taking in the firſt place. So here. And it would otherwiſe be a great miſchief, if an eſcape ſhould be againſt the wills of ſheriffs, or keepers of priſons, by breach of priſon, or reſcuing themſelves before they be brought to priſon, or in their going thither, and the priſoners be repriſed within two or three daies, that an action ſhould be brought in the *interim* againſt the Gaoler, and that this repriſal (when he hath the priſoner before the plea) ſhould not be an excuſe, eſpecially to the Marſhal, who hath multitude of priſoners, and every day is to bring them unto the Hall by *Habeas Corpus*, or Rules of Court: If peradventure a priſoner eſcapes, and an action be brought againſt the Marſhal the ſame day, before he can have any time to re-take him; if he ſhould not be excuſed by the re-taking, he would be charged with a multitude of ſuits, and could not have any remedy to excuſe him.

him. And therefore it was compared to the pleading of a fine levied before the writ of *Formedon*, and Proclamations incurred, pendant the writ, before the plea pleaded, he well may take advantage thereof by pleading it, although when the writ was brought, it was not compleat, nor could be pleaded. *Vide* 6 *H.* 7. 12.

Secondly, It was moved, admitting this to be no plea, yet the action lies not here, because the escape is of a *Feme Covert*, where her Baron is subject to the execution: So the Plaintiff hath not lost his debt; for by intendment she might not have paid it, if she had lain in prison; for she had nothing but what was her Husbands, and the execution remains yet against him.

Therefore action of debt lies not, because he is not totally deprived of his debt; but an action upon the case, in respect of the damage.

And therefore it was said, if one have execution of a Statute of the Lands, Goods, and Body, *&c.* and the prisoner escapes; yet because the Land remain in execution, debt lies not for the escape, but an action upon the Case: For at the Common Law, an action of debt was not maintainable for an escape; but it is given by the Statute of 1 *Richard* 2. where the debtor escapes. But here the sole and principal debtor did not escape; for the Baron is the principal, and remained subject to the Execution. *Vide* 33 *H.* 6. 47. *N. Br.* 93. *Regist. fo.* 98. 4 *H.* 6. 6. *Statute* 1 *R.* 2.

Wherefore, *&c.* But the Court held, that it was not any plea, because the action is brought, and implies a voluntary permission *ire ad largum*, which is neither denied or traversed. And if the Sheriff voluntarily lets a prisoner at large, he cannot re-take him. And so this reprisal, as is alledged, being after the action brought, is to no purpose, nor is any plea. And for the action of debt, they held, that it well enough lies, or an action upon the case at his pleasure; because the Feme was only committed to prison, and not the Baron; and she is the sole debtor who is imprisoned; wherefore it was adjudged for the Plaintiff.

But note, In as much as escapes are so penal to Sheriffs, Bailiffs of Liberties, and Gaolers, the Reverend *Nota.*

Judges of the Law have alwayes made a favourable construction, as much as the Law will permit, in favour of the Sheriffs, Bailiffs of Liberties, and Gaolers, who are Officers and Ministers of Justice. *Co.* 3. 44.

Of Bail, what it is; and where the Sheriff may take Bail, and where not.

What bail is. Co. super Lit. lib. 1 *c.* 10 *Sect.* 79.

BAil, or *Ballium*, is a safe keeping or protection; and thereupon we say, when a man upon surety is delivered out of prison, *traditur in ballium*, he is delivered into bail, *viz.* into their safe keeping or protection from prison, before that he hath satisfied the Law: it hath its original and derivation from the French word *Bailler*, and that also cometh from the Greek word βαλλειν, they both signifie to deliver into hand; for he that is bailed is taken out of a prison, and delivered into the hands of his friends who are his sureties for his appearance at a certain day, to answer and be justified by the Law.

Any person making a warrant, &c. without original process upon examin. &c. shall be committed without bail, &c. 43 E. c. 5.

Sheriffs, under-sheriffs, or other persons, making any warrant for the summons, arresting or attaching any person to appear in any Court, not having the Original Process or Writ to warrant it, upon examination and proof thereof before the Judges of Assize, or Judges of the Court, *&c.* such offender and their procurers shall be committed to the Gaol, there to remain without bail until they have paid (amongst them) 10 l. to the party grieved, and his costs and damages; as also 20 l. to the King. 43 *Eliz. c.* 6.

Such as are in execution, &c. not to be bailed. The like.

Such persons as are in execution upon any Statute, Recognizance, or upon judgment given in the Kings Court at the suit of any person, they shall not be bailed until they have agreed with the Plaintiff. 1 *R.* 2. *c.* 12. 23 *H.* 6. *c.* 10. *F. N. B.* 9. & 121. *a.*

Persons condemned in any of the Kings Courts, and by vertue thereof committed to prison, they shall not be bailed until they have agreed with the Plaintiff. 1 *R.* 2. *c.* 12. 2 *H.* 5. *cap.* 2. *F. N. B.* 121. *a.*

If the sheriff do let to bail any persons prohibited (by the Statute of *Westminster* 1 *cap* 15.) to be bailed, he shall be punished by the Justices of Gaol-delivery, according to the form of the same Statute; or the Justices may fine them, as for an escape punishable at the Common Law. 25 *E.* 3 39.

None to be bailed that are prohibited by the Stat. Westm 1 *cap* 15.

The sheriff might at the Common Law have bailed any suspected of felony (because he is Conservator of the Peace) but now it seems the power is transferred to the Justices of the Peace only. See the statute 1 *R.* 3. *c.* 3. & *H.* 7. 3.

He cannot bail any suspect of felony as formerly.

If a prisoner bailable tender sufficient sureties to the sheriff, and he refuseth, he shall be amerced to the King and former 40 *l.* and shall lose treble damages to the party grieved.

He cannot refuse to bail one bailable, upon tender of sufficient sureties.

If a person be arrested by vertue of any writ or precept in any action personal, upon tender of reasonable sureties to appear at the day and place, as the said Writs, Bills or precepts shall require, he shall be bailed. 23 *H.* 6. *cap.* 10. *Fitz.* 87. 251. *b.* And the person is not obliged to go to the sheriff, if he offer sufficient bail to the Bailiff.

The like. 23 *H.* 6. *c.* 10. *Fitz.* 251. *b.*

Persons apprehended for any manner of Treason or Felony shall not be bailed. *Westm.* 1. *cap.*

Traytors or Felons not bailable.

It is the constant course of the Kings Bench, that the bail is never chargeable till there is default assigned in the principal upon the return of a *Capias ad satisfac.* And the principal render his body, though the Plaintiff refuse to take it, yet that is a discharge of the bail. *Winch.* 59. *fo.* 62.

In the Kings Bench the bail not chargeable till default assigned in the principal, &c. Winch. Rep. fo. 62.

It is not repugnant to our present subject to transcribe the new Rules concerning special bail, *viz.*

1. That if the Defendant appear upon the summons, attachment, or distress, or by *Supersedeas quia improvide*, or both truly render himself upon the Exigent, no bail is requirable.

The new Rules.

2 That in all causes of removal, be it by *Habeas corpus*, Priviledges, or *Certiorari*, special bail ought to be given.

3 That in causes where the Defendant comes in by *Habeas corpus*, be it debt, detinue, trespass for goods, action upon the Case (except slander) if the debt or damages amount to 20 l. special bail is to be given, except it be against the Heir, Executor, or Administrator.

4 That in Covenant, because the damages are uncertain till Declaration, bail at discretion.

5 That in Battery, Conspiracy, false imprisonment, no special bail of course, without special motion and order.

6 That in slander no special bail, except in slander of title, wherein to be left to the discretion of the Judge.

7 That in priviledge, other then for fees and disbursements as an Attorney in this Court, bail at discretion of the Court. In such case wherein a suit by a common person, special bail is not requisite.

8 That if bail be given upon reversal of an Outlawry or removal by *Habeas corpus*, the Original to be filed upon tendring of the Declaration, otherwise the bail not liable, unless the party or his Attorney will voluntarily appear, or take a Declaration without shewing of it.

9 That in case of a removal out of an inferiour Court or reversal, the new Original to agree in the name of the action, the sum in demand, and the County, otherwise the bail not liable; but if the party will voluntarily appear to such varying original, to be good as to the party; but if upon a cause removed by *Habeas corpus* out of the Courts of *Canterbury*, *Southampton*, *Hull*, *Litchfield* or *Pool*, which are Counties where the Judges of *Nisi prius* seldome come, if the action be transitory, it may be laid in the County of *Kent*, *Southampton*, *York*, *Suffolk* or *Dorset*, where the Town and County lieth, and the Recognizance to be taken accordingly.

10. That the principal rendring himself at any time after bail put in, and before or upon the day of appearance of the *Scire fac.* returned *Scire feci*, or of the *Scire facias* returned *Nihil*; or in case there shall be no action of debt brought upon the Recognizance against

then if the principal shall render himself upon or re the process returned or served, no further proceed- to be against the bail.

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of the Election of Parliament-men, how, and when they are to be elected, &c.

He manner of electing Knights of the Shire is as fol- loweth: *viz.* At the next County-court after the deli- y of the writ, Proclamation is to be made in full unty, of the day and place of the Parliament; and t all there present, as well suitors summoned as others, ll attend to the election of the Knights; and then in l County a free and indifferent election shall be made, withstanding any request or mandate to the contrary. *Stat. 7 H. 4. 15.*

nd note, that no election can be made by any Knight of Shire, but between the hours of eight and eleven in forenoon: but if the election be begun within the rs, and cannot be determined within those hours, the e- tion may be made after. And if any election or voices given before the precept be read and published, are d and not effectual. *Co. Inst. 4. fol. 48.*

Likewise he ought immediately after the receipt of the rit of his Majestie for the summoning of the Parlia- ent, to make his precepts under the seal of his Office, every Mayor and Bailiff of Cities and Boroughs within s County, commanding them thereby to chuse Citizens d Burgesses to come to the Parliament. And those May- s and Bailiffs must make a legal return of that precept the Sheriff, of their election, and their names that are ected: The Sheriff setting his hand and seal of Office to e part of the Indentures, delivering it to the Mayor, tizens, or Burgesses to be kept; the Mayor, Citizens, Burgesses setting their hands and seals to the other part, elivering it as their Deeds to the Sheriff, to be certified nd returned by him with the writ of summons to the Clerk of the Crown, whose fee is 4 s for every indenture. *23 H. 6. cap. 15. Crompton 208. P. Parl. 5.* *23 H. 6. c. 15. Cromp. 208.*

Rot. Parliam. 5 *H.* 4. *num* 38. *Co. Inst.* 4. *fo.* 49.

Note, that after the precept of the sheriff directed the City or Borough for making of Election, there ou *Secundum legem & consuetudinem Parliamenti*, to be gi a convenient time for the day of election, and sufficie warning given to the Citizens or Burgesses that have ces that they may be present, otherwise the election is good.

And likewise note, that whereas in the Charters Corporations it is said, that in the election of the Ma Bailiffs, Provosts, Parliament-men, or the like Magistra or Officers, they shall be chosen by all the Commonal or Burgesses; if they have been chosen (time out of min by a certain select number, commonly called the Co mon-Council, or by such like name, and not in general all the Commonality or Burgesses, only so many of the as will come to the election: such ancient and usual e ctions are good and well warranted by their Charte and by the Law also; for in every of their Charters th have power given them to make Laws, Ordinances, a Constitutions, for the better government of their Citie Boroughs, *&c.* by force whereof, and to avoid popul confusion, if they by their common consent do constitu and ordain, that the Mayor, Bailiffs, or other princip Officers, shall be chosen by a certain select number of t principal of the Commonality or Burgesses, as aforesa and prescribe also how such select number shall be chos such Ordinances and Constitutions were resolved to good and allowable, and to agree with the Law and the Charters, for avoiding of popular discord and confusi And it was resolved, that although such an Ordinance a Constitution cannot be now produced, yet it shall be pr sumed, in respect of such a manner of ancient and contin al election, and that at first such an Ordinance or Consti tution was made: and it was said, that by the ancient an usual usages, elections have been so made in the Cities *London*, *Norwich*, and in other Cities and Corporations, which were resolved to be good, and they were not to innovated, or altered, for the many great inconveniencies which may arise thereby. *Coo.* 4 *part.* 77. *The case Corporations.*

At the election, if the party elected, or the Free-holder demand the poll, the sheriff cannot deny the scrutiny, fo

e cannot diſcern who be Free-holders by the view: and hough the party would have the poll, yet the ſheriff uſt proceed in the ſcrutiny. *And* by the ſtat. of 8 *H.* 6. 7. & 10 *H.* 6. *c.* 2. the election of Knights of the ſhire hall be made by the more voices of the people dwelling n the Counties, having each of them lands or tenements f the yearly value of 40 s. beſides reprizes; and the heriff hath power to examine upon oath the chuſers, ow much they may expend by the year. *Co. Inſt. fol* 48. *Who may be electors.*

After ſuch election, the names of the parties ſo elected (be they preſent or abſent) ſhall be written in an Indenture, under the ſeals of all thoſe that did chuſe them; which Indenture ſo ſealed and taken to the ſaid writ, ſhall be the ſheriffs return thereof touching the Knights of the ſhires: and in ſuch writs (by the ſaid ſtature) this clauſe ſhall be hereafter put *Et electionem tuam in pleno Comitatu tuo factam diſtincte & aperte, ſub ſigillo tuo & ſigillis eorum qui electioni illi interfuerunt, nos in Cancellaria noſtra ad diem & locum brevi contentum certifices inditate.* 7 *H.* 4. *cap.* 15.

Such perſons as are eligible ſhall be reſiant in the County for which they are choſen, the day of the date of the writ of Summons, and likewiſe thoſe that chuſe them: Alſo Citizens and Burgeſſes ſhall be reſiant in, and free of the Cities and Boroughs for which they are choſen. *What perſons are eligible, and who not.*

One under the age of one and twenty years is not eligible, neither can any alien be elected of the Parliament until he be naturalized by Parliament, after which he is eligible to this or any other place of judicature. *Co. Inſt.* 4. *fo.* 48.

None of the Judges of the Kings Bench, or Common Pleas, or Barons of the Exchequer, that have judicial places, can be choſen Knight, Citizen, or Burgeſs of Parliament, becauſe they are aſſiſtants in the houſe of Lords. As for the preſent times I make a quare of this. *Ibid.*

A man attaint of treaſon, felony, *&c.* is not eligible: for touching the election of two Knights, the words of the writ are, *Duos milites gladiis cinctos magis idoneos, & diſcretos elegi fac.* And for election of Citizens and Burgeſſes the words of the writ are, *Duos, &c. diſcretioribus & magis ſufficientibus*; which they cannot be ſaid to be, when they are attainted of treaſon or felony, *&c.* *Ibid.*

Any of the profeſſion of the Common Law, and who are in practice of the ſame, are eligible.

1656 By the *Humble Petition and advice*, thoſe are diſabled to be elected, who have adviſed, aſſiſted, or abetted the rebellion of *Ireland*, and thoſe who do or ſhall profeſs the Popiſh Religion; and likewiſe all thoſe who have aided, abetted, adviſed or aſſiſted in any war againſt the Parliament, ſince the firſt day of *January* 1641. (unleſs he or they have ſince borne arms for the Parliament, or Protector, or otherwiſe given ſignal teſtimony of their good affection to the Commonwealth, and ſo continued) and ſuch as have been actually ingaged in any plot, conſpiracy or deſign againſt the perſon of the Protector, or in any Inſurrection or Rebellion in *England* or *Wales* ſince the 16 day of *December* 1653. are diſabled and made uncapable to be elected.

Puniſhment of ſheriffs for their negligence in elections or returns.

The puniſhment of ſheriffs for their negligence in returning of writs, or for leaving out of their returns any City or Borough which ought to ſend Citizens and Burgeſſes, *Vide* 5 *R.* 2. *Stat.* 2. *cap.* 4. Alſo if one be duly elected Knight or Burgeſs, and the ſheriff return another, the return muſt be reformed and amended by the Sheriff, and he that is duly elected muſt be inſerted, for the election in theſe caſes is the *Radix* or foundation, and not the return. *Rot. Parl.* 5 *H.* 4. *num.* 38. *Co. Inſt.* 4 *fol.* 47.

Penalties on Counties and places for not electing.

By the Statute of 16 *Car.* every County, City, Cinque-port, and Borough that ſhall not make election of their Knights and Citizens, Barons and Burgeſſes reſpectively, ſhall incur the penalties following, (that is to ſay) every County the ſum of one thouſand pounds, and every City which is no County 200 l. and every Cinque-port and Borough the ſum of 100 l. except the Free-holders of any County, and Inhabitants, or other perſons having or claiming power to make election of any Knights, Citizens, Barons or Burgeſſes, ſhall proceed to making of elections of them, which elections ſhall afterwards fall out to be adjudged or declared void in Law by the Parliament, by reaſon of equality of voices, or miſdemeanor of any perſon whatſoever; then the ſaid County, City, *&c.* ſhall not incur the penalties aforeſaid, ſo as an election *de facto* be made.

Note

Note a case worthy observance adjudged, 14 *Car.* 2. *rot. Hill.* 13. & 14 *Car.* 2. *rot.* 1184. *Co. B. Lechmer's* case. *Trespasse pedibus ambulando & cum spadonibus, &c.* the Defendant justified, because that a writ issued to the Sheriff of *Worcester* to chuse Knights for the said County to be at the Parliament; and that the next County court for the said County, after the receipt of the writ, was holden at the Castle of *Worcester*; and because the said Castle was not large enough to contain the Free holders assembled to make the said election, the said County-court adjourned it self from the said Castle of *Worcester*, to the place in *quo, &c.* The said Defendant further said, That he the time of the Court holden at aforesaid, and adjourned as aforesaid, was a Free-holder inhabiting within the County of *Worcester*, seized of lands and tenements in *Hanley* Castle in the County aforesaid, to the value of 200 *l. per ann.* and that the dwelling of the Defendant was distant from the place in *quo, &c.* six miles; and that the Defendant in obedience of the said writ and adjournment, came *predict. tempore quo*, from his dwelling-house to the place in *quo, &c.* riding upon a Gelding, with one servant attending as his servant upon the person of the Defendant riding upon another Gelding, to the intent that the Defendant might give his voice for the election of two Knights, according to the command of the said writ.

Upon which the Plaintiff did demur in Law; and upon argument at the Bar, judgment was given by the whole Court, *viz. Tirrall, Brown, Hyde*, and *Bridgman* Chief Justice, for the Defendant.

In which case these points were resolved:

1 That the County court, as to the election of Knights, is the Court of the Sheriff, and the Sheriff is the Judge, and the adjournment his act, the writ being in the nature of a special Commission (*eligi facias*) although that in other cases the Suitors are Judges.

2 That if the Sheriff adjourn the Court to another place, and the Suitors do not attend at the place of adjournment, they are amerceable by the Sheriff.

3 That they by their attendance are not Trespassers, by reason of the necessity to make election. (*interest reipublicæ.*)

4 That

4 That if the ſheriff maliciouſly adjourn to an unfit place, as a field of corn, *&c.* that an action lieth only againſt him, not againſt the Free-holder.

5 That the Defendant living at ſuch a diſtance from the place of adjournment, may juſtifie his coming thereon horſeback.

6 That the Defendant being an Eſquire, may juſtifie his coming thither, with one ſervant on horſeback attending upon him. *Adjudged* for the Defendant.

Note. But who ſhall be Electors, and who ſhall be elected, and the time, place, and manner of elections, and the duty of the ſheriff, you may read more ample in the poſitive Laws of 7 *H.* 4. *cap.* 15. 11 *H.* 4. *cap.* 1. 1 *H.* 5. *cap.* 1. 8 *H.* 6. *cap.* 7. 10 *H.* 6. *cap.* 2. 23 *H.* 6. *cap.* 15. 6 *H.* 6. *cap.* 4. *&c.* which need not here be particularly rehearſed.

Of the Office of Under-ſheriff.

What he is.

THe Under-ſheriff (in effect) is but the Sheriffs Deputy, and acts whatſoever is to be acted by the High-ſheriff; (except ſome particulars which are to be done by the ſheriff himſelf, as you ſhall find in ſeveral places of this Tract) and therefore according to the nature of a Deputation, muſt be removeable as an Attorney is: and though the ſheriff ſhould make him irrevocable, yet may he revoke him; for there is neither Common Law nor Statute Law that makes him immoveable. He is but in the nature of a general Bailiff errant to the ſheriff, and the whole County, as other Bailiffs are over a particular Hundred.

Hobert *fol.* 13. Norton's *caſe againſt* Simms.

His Oath appointed by the Statute of 27 *Eliz.* is, *That he ſhall bear himſelf well for ſo long as he ſhall continue in the Office.* It is neceſſary both for the publick ſervice, and for the indempnity of the ſheriff, that he be removeable by the ſheriff.

The

The Sheriff conſtituting an Under-ſheriff, doth implicitly give him power to execute all the ordinary offices of the ſheriff himſelf that may be transferred by the Law; aſſerving of Proceſs and Executions, *&c.* But he cannot deal in a writ of *Rediſſeiſin*, becauſe in that the ſheriff is Judge; nor in the caſe of a writ of *Waſte*, where the ſheriff himſelf (*in propria perſona*) is commanded to go to the place waſted, becauſe it is perſonal unto the ſheriff himſelf.

He hath power to execute all the ordinary offices of the ſheriff, that may be transferred by the Law, &c.

If a ſheriff will make an under-ſheriff, provided that he ſhall not ſerve Executions above 20 l. without his ſpecial warrant, this proviſo is void. For though it be at his election not to make an under-ſheriff at all, or may depute him at his will, and to remove him wholly; yet he cannot leave him an under ſheriff, and yet abridge his power, no more then the King may in caſe of the ſheriff himſelf. *Hob. rep. fol.* 13.

The ſheriff ought to be very cautious in taking good and ſufficient ſecurity of the under-ſheriff, to diſcharge, protect, and ſave him harmleſs of eſcapes upon arreſts made by himſelf; for ſince that he tranſfers his authority unto him, it is reaſon that he take ſecurity of him to perform all things juſtly and honeſtly to himſelf and others, not acting or intending any thing againſt Law. See more in the Articles betwixt the High-ſheriff and under-ſheriff, amongſt the Preſidents.

The ſheriff muſt take good ſecurity of him, &c.

The Sheriffs Fees.

By the Stat. of

Upon an arreſt.

TO the Sheriff	00	01	08
To the Bailiff who makes the arreſt or attachment	00	00	04
To the Gaoler if the perſon be committed to priſon	00	00	04
For the Obligation for appearance if the priſoner be bailed	00	00	04
For making the warrant upon the writ, for every name	00	00	04
For the Copy of a Pannel	00	00	04

For

Extortion by Lamb. fol. 4. 15. Cromp. fo. 205. b.

For returning of a Pannel, though it ſeems to be extortion by *Lamb fol.* 4 15. and *Cromp. fol.* 205. *b.* they uſe to take —— 00 02 00

For the return of every *Cepi corpus* —— 00 00 04

For the return of a *Nihil*, or *Non eſt inventus* 00 00 04

For making Proclamation at the Church door upon an Exigent, *&c.* —— 00 01 00

For the return of a Proclamation —— 00 01 00

For the return of every *Venire facias*, *Tales*, *Habeas corpora*, and *Diſtringas* —— 00 02 04

For every name returned outlawed —— 00 00 04

For making a Precept upon a Writ to a ſpecial Bailiff, for every name —— 00 02 00

For the arreſt of every Defendant from the Plaintiff —— 00 01 00

For the copy of the warrant upon the writ 00 00 04

For the returning of a *Mandavi baliivo.* —— 00 00 04

For writs of executions upon the judgment upon bills ſued in perſonal actions, the debt or damage being under 40 *s.* —— 00 01 00

Upon bills ſued above 40 *s.* in actions perſonal, for the return of every ſuch bill —— 00 00 04

For every writ of Execution —— 00 02 00

For executing of every writ of *Elegit* in perſonal actions —— 00 06 08

In all real or mixt actions ſued by Original writ, for return of every original writ —— 00 02 00

And for return of every other writ of judicial proceſs depending upon the ſame before judgment —— 00 02 00

And for every writ of execution after judgment, upon every original in action, real or mixt —— 00 02 00

For executing every *Habere fac. ſeiſinam* —— 00 06 08

For attachments upon *Capias*, or other proceſs ſued by original or judicial writ, if the return be *Cepi corpus* —— 00 02 00

For a *Reddidit ſe* upon an Exigent of felony in appeal of murder, or maim, or upon an Indictment of felony or murder —— 00 02 00

Upon

Upon a *Reddidit se* upon an Exigent of debt, trespass, detinue, and all other actions personals	00	01	00
For the making of a Reoleg	00	01	00
And *Wichernam* upon the same	00	01	00
For return of every writ of appeal of murder, felony, or maim	00	01	00
And upon all process growing upon the same, as *Venire facias*, *Tales*, *Habeas corpora*, and *Distringas*	01	01	00
For every prisoner delivered by acquittal, or by Proclamation for any manner of felony	00	01	00
For a *Replevin*	00	02	00
For the return of a *Recordare*	00	00	04
For the return of an *Accedas ad cur.*	00	00	00
For the allowance of a *Supersedeas* after the return of the *Exigent*	00	02	00

The sheriff is to be compounded and agreed with for these.

For executing of a writ to enquire of *Waste*.

Also for executing a writ to enquire of damages.

Likewise for executing a Statute.

For executing of a writ of Right.

For serving of a writ *de partitione facienda*.

For removing the over-charge of Common of pasture.

For enquiry upon an *Elegit*.

For writs of forcible entry, or holding with force, whereupon the party amoved is to be restored to his possession.

For execution of a judgment upon a writ.

The

The Under-sheriff of Middlesex *useth to take these Fees following in the Court of Common Pleas.*

For a warrant for a *Capias*, upon every name—00 00 04
For the return of a *Venire facias* ——— 00 02 00
For a warrant upon a *Capias utlag.* ——— 00 00 04
For return of a *Habeas corpora juratorum* —— 00 04 00
For summoning the Jury, for every name ——— 00 00 04
For return of a Proclamation ——— 00 01 00
For return of a *Scire facias* ——— 00 02 00
For return of a *Nihil habet*, and *Fieri facias* — 00 01 00

For executing an Exigent, or Execution.

For executing an Exigent, or execution upon body, Lands, Goods and Chattels, twelve pence for every twenty shillings, where the sum exceeds not one hundred pounds; and six pence for every twenty shillings, where the sum exceeds one hundred pounds; that is to say, for every twenty shillings that he or they shall levy or extend, and deliver in execution, or take the body in execution.

Of Sheriffs accompts, with a Particular of some usual Charges or Fees paid by them at the rendring of their accompts.

THe sheriff giveth his accompts into the Exchequer, and there is charged with his casualties, which are all manner of debts of casualties, and Reliefs, Fines, Amerciaments upon the sheriff, debts recovered, and such like as are drawn down either from any Record of any of the Remembrancers of the Exchequer, or from any other matter, ground, or seisure of the Court: and the sheriff must answer to every sum charged upon him as he hath cause; that is to say, such a sum within such and such a Liberty, and sheweth whose they be.

He

He is charged with old seisures, which are Lands and Tenements seized before by his Predecessors, upon the process of the Court; and likewise with his own seisures, which are Lands and Tenements seized in his own time by process of the Court, and so addeth to these such Fe-lons goods as he hath seized himself.

There the sheriff hath such allowances as are allowed him by *Act* of Parliament, together with the Justices of Peace wages of his Shire out of the Fines and forfeitures before the Justices of Peace thereof, if the streat will bear them, laid out before the sheriffs for the Justices wa-ges, according to the Statute; of the which allowance, and of the particular names of the Justices, the forreign opposer doth deliver a Roll into the Pipe, for the Clerk of the Pipes warrant to allow the same wages to the she-riff. After which things done, *viz.* allowance of all pay-ments, deductions, and annual charges, then hath he his *Quietus est*. The fees are as follow.

In the Term of S. Hilary, on the morrow of Purifica-tion, &c.

Imprimis, To his Attorney for his warrant of Attorney, *&c.* for his own fees, and his mans fees, and to another for entring the warrant——02 00 02

To the Prime Baron for minister̃ing the oath, for the apposel upon the summons of the Pipe, his fee for the Vicontels, and his mans fee for the same——01 07 00

To the Marshal, Cryers, and Tipstaves there—01 06 08

The fees of the forreign Opposer and his men are——04 00 00

For his writ of assistance from his Attorney—00 05 06

His Attorneys fees in the Pipe, and his mans fees——06 00 00

The fees of the Deputy of the Pipe——01 03 04

To the Controller of the Pipe, his man, and other Officers of the Pipe——02 15 02

His Attorneys fee in the Remembrancers Of-fice, and his mans fee——00 06 10

To the Master of the Wardrop for his fee, for a Talley, to have thereby an allowance given for it, and for joyning of that Talley in the Pipe——05 16 05

To the Master of the Pipe for his fee——18 05 00

The

The forreign Opposers fee for allowance of Justices wages to the sheriff upon the extracts of the peace, and for the casting up of the *Debet* upon the Scedules of the Green wax, and to his men for their fee ——— 02 18

To the *Auditor* assigned for the *Shire* for declaring of the accompt ——— 12 00

To the Attorney of the Pipe for giving allowance of the Justices wages, before allowed by the forreign Opposer in the sheriffs accompt, and for the foot of the accompt, and to his man 02 06

To the Baron for declaring of the accompt, and to his man for his fee ——— 00 08

To the Attorney in the Remembrancers Office, for examining of the accompt, and to one for the receiving of the accompt ——— 00 05

For Copies of the seizures which the sheriff makes himself in his year, commonly at the least ——— 05 00

For Copies of the new seizures, according to the number of them, in some Counties but twenty shillings, but most commonly in *Yorkshire* to ——— 02 00

For Petitions upon the account, for each ——— 00 04

For another writ of assistance ——— 00 05

For entring the view of the accompt, and in the alienation Office for viewing of the accompt, and for a note of the charge there ——— 00 09

For every Schedule of Issues upon general pardons and to the Clerk of the extracts man — 00 15

To a Baron for allowing of them, and to the Barons man ——— 00 17

In the alienation Office for making of the Bond and Acquittance, with the Schedules of seizures against such as have sold land held of the King without license of alienation ——— 10 06

For a warrant for a day to finish the accompt until *Mich. Term* ——— 00 10

To the Attorney in the Pipe Office for setting off from the accompt six amerciaments, and to his man ——— 01 10

For discharging the amerciaments, and for a warrant to set off and discharge ——— 01 12 06
For another writ of assistance ——— 00 05 06
If the sheriff cannot go thorow with his accompt in Trinity-Term, then to the Marshal for liberty, and to his man ——— 04 13 04
For ruling and making the Petitions, and to his man ——— 09 00 00
To the Master of the Pipe for his fee ——— 00 13 04
To the Controller of the Pipe for his fee, and to his man ——— 02 12 00
The fee of the Attorney of the Pipe, and to his man ——— 06 02 06
For the acquittances of two tallies in the receit, and for striking off those tallies ——— 00 05 04
To two Auditors for casting up of the sheriffs accompt in Court, when he is to be cast out of the Court ——— 00 10 00
To the Baron then, and to his men ——— 01 07 00
To the Marshal, Tipstaves, and Cryers then ——— 00 16 08
To the Clerk of the Pipe for Recusants, and for allowing and joyning of the talley for Recusants debts ——— 01 16 00
To the Baron for respects for Recusants debts 01 10 00
To the Clerk of the Pipe for Recusants for allowing of that Warrant, and to the Master of the Pipe for the same ——— 00 13 04
To the Bag bearer ——— 00 01 00
For the *Quietus est*, to the sheriffs Attorney of the Pipe, and to his man ——— 04 06 08
For the *Quietus est* for the Recusants ——— 01 00 00
Cum multis aliis, &c.

But the Sheriff is at much more charge, which is laid out, and is disbursed during his Sheriffwick, as experience will better inform him.

The Return of a Devaſtavit.

EGo R S Vic. Com. infra nom. Juſticiar. infra mentionat. certifico quod infra nominat. A B ante advent. iſtius brevis devaſtavit, & ad uſum ſuum proprium convertit diversa bona & catalla, quæ fuer. infra nominat. F G tempore mortis ſue, ad valenc debiti & damnorum infra ſpecificat. & quæ ad man. & poſſeſſionem ipſius A B Executor ejuſdem F G Adminiſtr. devenerunt, ita quod debitum & damna prædicta vel aliquam inde parcella de bonis & catallis prædict. reſtator. F G levari ſeu fieri facere non potuit: & ulterius certifico Juſticiar. prædict. quod infra nominat. A B nulla habet bona ſeu catalla de bonis & catallis ſuis propriis in balliva mea, unde damna prædicta fieri facere poſſim.

R S Ar. Vic.

The return of a Devaſtavit by Inquiſition.

INfra nominat. A B nulla habet bona ſeu catalla quæ fuer. infra nominat. C D tempore mortis ſue in manibus ſuis adminiſtrand. in balliva mea, unde fieri facere poſſim debitum & damna infra mentionat. vel aliquam inde parcellam, nec ulla bona ſeu catalla de bonis & catallis ſuis propriis in balliva mea, unde fieri facere poſſum damna prædicta, vel aliquam inde parcellam: Et ulterius certifico Juſticiar. infra ſpecificat. quod per T I & E R probos & legales homines de balliva mea ſcire feci eidem A B quod fuit coram Juſticiar. prædictos ad diem & locum infra contenc. ad oſtendend. &c. prout interius mihi præcipitur.

Reſid. execution. iſtius brevis patet in quadam Inquiſitione huic brevi annex.

R S Ar. Vic.

If.

INquiſitio indent. capt. apud A in Com. prædict. xxii die *Januarii*, anno Regni Dom. Regis infra ſcript. xiiii, coram me R S Vic. Com. prædict., virtute brevis dict. Dom. Regis mihi directi, & huic Inquiſition. annex., per ſacram.

G H

H (*and ſo to the number of twelve*) proborum & le-
ium hominum de balliva mea, qui dicunt ſuper ſacr am.
um, quod A B in prædicto brevi nominat. devaſtavit & ad
um ſuum proprium convertit diverſa bona & catalla quæ
er. infra nominati C D tempore mortis ſuæ, ad valenc.
biti & damnorum in eodem brevi ſpecificat. & quæ ad
an. ejuſdem A B adminiſtrand. ven. In cujus rei teſti-
onium, tam ego præfat. Vic. quam prædict. Jurator. huic
quiſition. indent. alternatim ſigilla noſtra appoſuimus
idem die & anno primo ſupraſcript.

R S Ar. Vic.

Virtute hujus brevis mihi direct. fieri feci de bonis & ca- *The return of a* Fieri feci.
llis infra nominat. A B integram ſummam 80 l. quos qui-
em denar. coram duo Rege ad diem & locum infra men-
onat. parat. habeo ad reddend. infra nominat. C D pro
ebito & damnis ſuis infra ſpecificat. prout per hoc breve
ihi præcipitur.

R S Ar. Vic.

Virtute iſtius brevis fieri feci de bonis & catallis infra no- *The return of a* Fie. fac. *where part of the debt is levied, and for the reſidue a* nulla bona.
inat. A B ad valenc. 8 l. 16 s. 4 d. qui quidem denar.
oram Dom. Rege ad diem & locum infra mentionat. pa-
at. habeo ad reddend. infra nominat. C D in parte debiti
damnorum ſuorum infra ſpecificat. Et ulterius dicto
omino Regi certifico, quod prædictus C D nulla al. vel
ſuria habet bona vel catalla in balliva mea, unde ad præ-
ns fieri facere poſſim reſid. debiti & damnorum prædicto-
m ſecund. exigent. iſtius brevis.

R S Ar. Vic.

Virtute iſtius brevis mihi direct. de terris & catall. infra *Another return of a* Fi. fa.
ominat. A B cepi, videlicet, un. meſſuag cum pertin. in
S in Com. meo N modo in tenur. cujuſdam G D quod
rædictus A B tempore captionis ejuſdem tenuit ſibi
t aſſign. ſuis pro quodam termino annorum qui nondum
æteriit, ex dimiſſione, conceſſione, vel aſſignatione cu-
uſdam R B ad valenc. x l. quæ quidem terr. & catall. ad-
uc remanent invendit. in manibus meis, pro defectu emp-

torum ratione cujus eoſdem denarios coram Juſticiar. i
mentionat. ad diem & locum infra content. habere
poſſum, ad reddend. infra nominat. C D prout interius
hi præcipitur.

R S Ar. Vic.

The return of a writ where the ſheriff died after execution thereof, and ſo returned prout indorſat. *by the preſent ſheriff.*

Juſticiar. infra mentionat. certifico, quod poſt exec
on. iſtius brevis, & ante retorn. inde E L Mil. nuper
Com. prædicto obiit, & quod hoc breve prout ſuper
indorſat. & retorn. mihi R S Ar. modo Vic. Com. præ
deliberat. fuit per G T deputatum Vic. prædict. E L
per Vic. Com. prædict.

R S Ar. Vic.

The return of an Elegit where lands are in the Kings hands.

Juſticiar. infraſcript. certifico, quod terr. & tenemen
quæ fuer. infra nominat. F B eodem die & anno infra m
tionat. quo judicium debit & comporum infra ſpecifi
reddit fuit, ſunt & adhuc exiſtunt in man. Dom. Regis
Cur ſua Wardorum & Liberation. ratione quod R B G
tenens terrarum & tenementorum prædict. adhuc non p
ſecut. eſt liberation. terrarum prædictorum extra C
prædictam: Ideo ad execution. iſtius brevis proced
non poſſim, prout interius mihi præcipitur.

R S Ar. Vic.

Inquiſitio indent. capt. apud W in Com. prædicto ſe
die Januarii anno Regni Dom. Regis nunc, &c. xiiii, co
me R S Ar. Vic. Com. prædict. virtute brevis dict. D
Regis mihi direct. & huic Inquiſition. annex. per ſacra
M P *(and ſo to the number of twelve)* proborum & le
lium homin. de balliva mea qui Jurati & onerati ad veri
tem de & ſuo præmiſſis in dicto brevi content. dicunt
per ſacram. ſuum, quod H S in dicto brevi nominat. ſci
fuit in dominico ſuo, ut de Feodo, xiiii die Junii anno,
in eodem brevi mentionat. de un. capital. meſſ. cum p
tinen. & quinq; acr. terr. ſex acr. prat. & octo acr. paſt
ſcituat. & exiſten. in B in Com. prædicto, clar. annual.
loris in omnibus exitibus ultra repriſis 40 s. Et præd
Juratores ulter. dicunt ſuper ſacram. ſuum, quod præd.
non habet al. vel plur. terr. ſive tent. prædicto xiiii die Ju
præd

dict. nec unquam postea. neq; ulla bona vel catalla tem-
re captionis hujus Inquisitionis in balliva mea ad noti-
m Juratorum prædictorum; medietatem omnium & sin-
orum quorum quidem messuag. terrarum, tenementor. &
missorum, videlicet, dictam capital. messuag. & præ-
arum quinq; acras terr. & sex acras prat. ego dictus
die captionis hujus Inquisitionis deliberari feci T C
dicto brevi etiam nominat. tenend. sibi prædicto T & as-
n. suis, tanquam liber. tent. suis, secund. formam Statuti
eo casu edit. & provisis, quousq; debitum & damna in
dem brevi mentionat. plenar. fieri fact. erit. In cujus rei
timonium, &c.

Otherwise, Quousq; dictus T C in dicto brevi etiam no-
nat. plenar. satisfact. erit de debito & damnis in eodem
evi mentionat. In cujus rei testimon. &c.

R S Ar. Vic.

Infra nominat. A B non est invent. in balliva mea. Re- *The return of an Extent in the Exchequer, &c.*
executionis hujus brevis patet in quadam Inquisition.
dent. huic annexa.

R S Ar. Vic.

Inquisitio indent. capt. apud L in Com. prædicto xxi die *N ss.*
ctobris anno Regni Dom. Regis nunc xiiii, coram me R S
. Vic. ejusdem Com. N. virtute brevis dict. Dom. *Car.*
cundi Dei Gratia *Angliæ, Scotiæ, Franciæ,* & *Hiberniæ*
egis, Fidei Defens. &c. mihi direct. & huic Inquisition.
dent. annexi, per sacram. H S (*and so to the number of*
elve at least) proborum & legalium hominum de bal-
va mea, qui Jurat &c. dicunt super sacram. suum, quod
T in prædicto brevi nominat. xx die April. anno Regni
egis prædict. xiii, in eadem brevi mentionat. super quem
em dictus R T devenit debitor dicto Dom. Regi infra
entionat. seisit. fuit in dominico suo ut de Feodo, de & in
n. messuag cum pertinen. quinq; acr terr. sex acr. prati,
octo acr. pastur. scituat. jacen. & existend. in F in Com.
rædicto, modo in tenur. & occupatione I G vel assignat.
orum, clari annual. valoris in omnibus exitibus ultra re-
risis x l.

Omnia quequidem meſſuag. terr. & tenementa cum pe
tin. ego præfat. Vic. eodem die captionis iſtius Inquiſitio
cepi & ſeiſivi in manus dict. Dom. Regis, prout per bre
iſtud mihi præcipitur.

Et iidem Jurator. ſuper ſacram. ſuum dicunt, quod pr
dictus R T ad diem captionis hujus Inquiſitionis in reve
ſione ſeiſit. eſt (cum viderit poſt mortem C Vic.) in D
minico ſuo ut de Feodo, de unus meſſuagio cum pertin.
acr. terr. quinq; acr. prat. & xii acr. paſtur. ſcituat. i
cend. & exiſtend. in H in dicto Com. N & modo in tenu
& occupatione ejuſdem C Vid. Et quod prædicta C Vi
nunc in vita exiſtit adeo quod ad preſens dict. meſſua
terr. & premiſſ. in H præd. ſunt nullius valoris; ſed p
mortem ipſius C Vid. clari annual. valoris fuerint in o
nibus exitibus ultra repriſis 8 l.

Reverſio cujus quidem meſſuag. terr. & præmiſſis, cu
perun. in H prædicta (cum acciderit) ego præfat. Vic. e
dem die captionis hujus Inquiſitionis cepi & ſeiſivi in m
nus dict. Dom. Regis, ſecund. exigent. iſtius brevis.

Et ulterius Jurator. prædicti ſuper ſacram ſuum dicu
quod ſupra nominat. R T tempore captionis hujus Inqui
tionis fuit & modo poſſeſſionat. eſt de bonis & catallis
paratum mentionat. & appreciat. in quadam Scedula hu
Inquiſition. indent. annex. ut de bonis & catallis ſuis p
priis; Et quod totus valor. eorundem bonorum & ca
lorum eſt xl s.

Quæ bona & catalla eodem die captionis hujus Inqui
tionis, ego præfat. Vic. ſimiliter in man. dict. Dom. Re
ſeiſivi.

Et iidem Jurator. ulterius dicunt ſuper ſacram. ſum
quod eodem die captionis hujus Inquiſitionis R I de G
Com. N prædict. *Yeoman*, indebitat. fuit ſupra nomin
R T in ſum. integra viginti librarum pro reddit. Acci
quod modo ſunt in man. ejuſdem R I diverſa bona & c
talla ejuſdem R T, ſcilicet, una longa tabula, &c. quæ bo
na & catalla conjunctim ſunt valoris xl s. Omnia quæ qu
dem reddit. viginti librarum, & bona & catalla valoris xl
præ

prad. ego præfat. Vic. eodem die captionis hujus Inquisitionis similiter seisivi in man. dict. Dom. Regis, ut in man. ejusdem R I.

Et prædict. Jurator. præterea dicunt super sacram. suum prædict quod infra nominat. R T null' al. sive plura habet terr. sive tenementa ad prædict. diem quo devenit debitor. sic ut prædicitur, nec unquam postea, neq; ulla al. sive plura bona & catalla habet tempore captionis hujus Inquisitionis in balliva mea ad notitiam Jurator. prædictorum. In & cujus rei testimonium, &c.

R S Ar. Vic.

Virtute istius brevis mihi direct. per W G & E D probos & legales homines de balliva mea, scire feci R W infra nominat. fil. & hered. R W infra mentionat. defunct. & W R & I H Gen. ter-tenen. diversorum terratum & tenementorum in balliva mea, unde prædictus R W patet tempore vitæ suæ fuit seisit in Dominico suo ut de Feodo in Cra[illegible] omnium animar. infra specificat. quod sint coram Justiciar. interius mentionat. ad diem & locum infra content. ad ostendend. &c. prout interius præcipitur. *The ret[illegible] of a[illegible] (se[illegible] [illegible] [illegible] [

The Oath of the Sheriff.

YOu ſhall ſwear, that you ſhall well and truly ſerve our Soveraign Lord the King in the office of the ſheriff of the County of *Yorkſhire*, and do the Kingdome profit in all things that belongeth to you to do by way of your office, as far forth as you can or may. You ſhall truly keep the Kingdomes right: You ſhall not aſſent to the decreaſe, or leſſening, or to concealment of his Majeſties rights, or of his Franchiſes: and whatſoever you have knowledge that his Majeſties rights have been concealed or withdrawn, to be in Lands, Rents, Franchiſes, or Suits, or any other things, you ſhall do your true power to make them to be reſtored to his Majeſty again: and if you may not do it, you ſhall certifie his Majeſty, his Councel, or ſome of them thereof. You ſhall not reſpite his Majeſties debts for any gift or favour, where you may raiſe them without great grievance to the debtors: You ſhall truly and rightfully treat the people of your Sheriffwick, and do right as well to poor as to rich, in all that belongeth to your office: You ſhall do no wrong to any man for any gift, or other beheſt or promiſe of goods for favour nor hate: You ſhall diſturb no mans right: You ſhall truly acquit at the Exchequer all thoſe of whom you ſhall receive any of his Majeſties debts: You ſhall take nothing whereby his Majeſty or the Kingdome may looſe, or whereby the right may be letted or diſturbed, and his Majeſty or the Kingdome delayed: You ſhall truly return, and truly ſerve all his Majeſties writs as far forth as ſhall be to your cunning: You ſhall not have to be your under-ſheriff any of the ſheriffs of the laſt year paſt: You ſhall take no Bailiff into your ſervice, but ſuch as you will anſwer for: You ſhall make Oath of your Bailiffs to make ſuch oath as you make your ſelf in that which appertaineth to their occupation: You ſhall receive no writ by you nor any of yours unſealed, or any ſealed under the ſeal of any Juſtice, ſaving the Juſtices of Aſſize, or Juſtice aſſigned in the

the ſame Shire where you are ſheriff, or other Juſtices having power and authority to make any writs unto you by the Law of the Land, or of the Juſtices of *Newgate*: You ſhall make your Bailiffs of true and ſufficient men in the Country. Alſo you ſhall do all your power and diligence to deſtroy and make to ceaſe all manner of Hereſies and Errors, commonly called Lollaries, within your Bailiwick, from time to time to all your power, and aſſiſt and be helping to all the Ordinaries and Commiſſaries. You ſhall be dwelling in your own proper perſon within your Bailiwick for the time you ſhall be in the ſame office, except you be otherwiſe licenſed by our Sovereign Lord the King: You ſhall not let your ſheriffwick, nor any Bailiwick thereof to any man: You ſhall truly ſet and return reaſonable and due iſſues of them that be within your Bailiwick after their eſtate and behaviour, and make your pannels your ſelf of ſuch perſons as be next moſt ſufficient, and not ſuſpect nor procured, as it is by the Statutes provided. And over this, in eſchewing and reſtraint of man ſlaughters, robberies, and other manifold grievous offences that be done daily, namely, by ſuch as name themſelves Souldiers, and by other Vagrants, the which increaſe in number and multiply, ſo that the people of this Kingdome may not in ſafety ride nor go to do ſuch things as they have to do, to their intolerable hurt and hinderance: You ſhall truly and effectually with all diligence poſſible to your power execute the Statutes, as the Statute of *Wincheſter*, and for *Vagabonds*. *All theſe things you ſhall truly obſerve and keep, as God you help.*

An

An Indenture by a High-sheriff, deputing one to be his under-sheriff.

THis Indenture made, &c. between *A B* of *R* in the County of *York* Esquire, Sheriff of the said County, of the one part; and *C D* of *W* in the said County, Gentleman, of the other part; *witnesseth*, That the said *A B* of assured hope, confidence and trust that he hath, that the said *C D* will honestly, uprightly, and sufficiently discharge the office and duty of under-sheriff as well towards our Soveraign Lord the King, as all the people of this Kingdome of *England*, and therein discharge him the said sheriff; and for the consideration hereafter mentioned, hath been pleased and contented to assign, depute, ordain, constitute and make, and by these presents doth assign, depute, ordain, constitute and make the said *C D* his under-sheriff of the said County of *York*, authorizing hereby the said *C D* according to the covenants and agreements by these presents contained, to execute, perform, and do all that which to the duty and office of under-sheriff of the said County of *Y* shall appertain, or to the sheriff of the said County, without the personal presence of the said sheriff may be executed and done, and also to receive and take to his own use, all manner of duties and lawful free commodities, profits and advantages to the same office belonging, or in any wise lawfully appertaining, during such time as the said *A B* shall continue sheriff of the said County: in consideration whereof, the said *C D* for himself, his Heirs, Executors, and Administrators, doth covenant, promise, and grant, to and with the said *A B* his Executors, Administrators, and Assigns, and every of them by these presents; That he the said *C D* shall and will during such time as the said *A B* shall continue, remain, and be sheriff of the said County of *Y* honestly, truly, and sufficiently execute and do the office and duty of an under-sheriff in the said County of *Y* and shall and will well and sufficiently do and execute for and in the name of the said sheriff, all and every thing and

A covenant by the under sheriff honestly to execute the office, &c.

and things concerning the office of the said sheriff of the said County of *Y* which without the personal presence of the said High-sheriff may lawfully be done and executed, and thereof shall discharge the said High-sheriff, his heirs, executors, and administrators.

And furthermore, the said *C D* for him, his heirs, executors and administrators, and every of them, doth covenant, promise, and grant to and with the said *A B* his heirs, executors and administrators, and every of them by these presents, that neither the said *C D* his servant, deputy, assignee, Clerk, or Bailiff, by him to be assigned, shall or will by colour of his said office, deputation or assignment, extort, levy, receive any manner of thing or things which by the Laws, customes, or statutes of the Kingdome are or shall be prohibited, or not allowed, whereby the said sheriff, his heirs, executors or administrators, or any of them may in any wise be either in their persons, goods, or lands, lawfully defamed, impeached, charged, impaired, molested, or troubled.

And that neither he nor his servant, &c. will do any thing contrary to Law in prejudice of the sheriff, &c.

And further, the said *C D* for himself, his heirs, executors and administrators, and every of them, doth covenant, promise, and grant to and with the said *A B* his heirs, executors and administrators, and every of them by these presents, That he the said *C D* shall and will assign and appoint sufficient Deputies and Attorneys in all Courts accustomed, as well to receive Writs, Warrants, Precepts and Commandments to the said sheriff to be directed, and to make process thereof, and to do all thing and things for the executing, serving, and sufficient returning thereof: And also shall make and appoint a sufficient number of Deputies in all parts of the said County of *Y* according to the Laws and Statutes of this Kingdome.

Covenant by the under-sheriff to appoint sufficient Deputies or Attorneys in all Courts, and Deputies in all parts of the County.

And he the said *C D* shall and will from time to time give reasonable notice and warning unto the said *A B* of all such things as shall be requisite and necessary for the said *A B* sheriff of the said County, or by reason of his said Office in his own person to do or execute, and *be done by him, in his proper person, and thereto will be assistant.*

That he is to give notice to the high sheriff of all things to

therein

therein at all times in his own perſon, or by his ſufficient Depury, ſhall be aiding and aſſiſting as well for the doing and executing thereof, and the returning thereof: As alſo ſhall bear and pay all ſuch charges thereof, as to the ſheriff by reaſon of the ſaid office ſhould appertain, except mans meat, and horſe meat.

Covenant to receive all proceſs, &c. to col. left all fines, iſſues amerciaments, &c. and to pay the ſame, &c. and to acquit and diſcharge the ſheriff.

And alſo the ſaid *C D* for himſelf, his heirs, executors, and adminiſtrators, and every of them, doth covenant, promiſe, and grant to and with the ſaid *A B* his heirs, executors, and adminiſtrators, and every of them by theſe preſents, that the ſaid *C D* his heirs, executors, adminiſtrators or aſſigns, ſhall and will well and truly from time to time receive all ſuch extracts and proceſs whatſoever, wherewith the ſaid *A B* as ſheriff of the ſaid County of *Y* is or ſhall be chargeable to receive, and that the ſaid *C D* his heirs, executors, adminiſtrators and aſſigns, ſhall and will well and truly collect, levy, and gather all fines, iſſues and amerciaments, ſeiſures, Fee farms, rents, profits, certainties, Pipe ſilver, Chequer-ſilver, and all manner of debts, duties and demands whatſoever, wherewith the ſaid *A B* as ſheriff of the ſaid County of *Y* his heirs, executors and adminiſtrators, their or any of their goods, chattels or lands, may in any wiſe be charged, or chargeable, and the ſame to pay to his Majeſties uſe at ſuch times as the ſaid *A B* is charged or chargeable to pay the ſame, and thereof, and of every part and parcel thereof, to acquit and diſcharge as well the ſaid *A B* his heirs, executors and adminiſtrators, and every of them, as alſo all and ſingular their and every of their goods and chattels, Mannors, Meſſuages, Lands, Tenements, and Hereditaments: And alſo that he the ſaid *C D* his heirs, executors, adminiſtrators or aſſigns, ſhall and will from time to time, acquit and diſcharge, or otherwiſe ſufficiently ſave and keep harmleſs the ſaid *A B* his heirs, executors, adminiſtrators and aſſigns; and alſo all his and their goods and chattels, lands, tenements, and hereditaments whatſoever, of and from all manner of execution or of executions of priſoners whatſoever which to the office of ſheriffwick ſhall appertain, forfeitures, fines, amerciaments, impriſonments, pains, penalties, or impoſitions whatſoever,

ever, to be charged, levied, or imposed upon the said *A B* sheriff of the said County of *Y*, his heirs, executors, administrators or assigns, his or their, or either of their goods or chattels, lands, tenements, or hereditaments, by reason of any mis-feasance or non-feasance, or misfions, default, delay, contempt, or cause whatsoever, of the said *C D* his Deputy or Deputies, Attorney or Attorneys, Clerk or Clerks, Bailiff or Bailiffs, or other person whatsoever, not doing, or insufficient doing his or their duty concerning the said office of sheriff or undersheriff And that neither he the said *C D* nor any his assigns, Deputies, Clerks or Attorneys, shall or will intermeddle with the execution or returning of any Letters or Commandments from his Majesty or his Privy Councel, without the privity, notice and direction of the said *A B* then first had: And the said *C D* for himself, his heirs, executors, administrators and assigns, and every of them doth further covenant and grant, to and with the said *A B* his heirs, executors and administrators by these presents, that he the said *C D* shall receive into his custody all prisoners to be committed to his charge, and them safely and honestly shall keep, until they shall be brought and delivered into the Gaol or Prison of the said County, there to be safely kept by the Gaoler or keeper of the same Gaol or Prison, until by due course of Law they shall be delivered. And of such prisoners as shall be convicted or attainted, shall make, or cause to be made due execution, according unto the quality of the judgment against every of them to be pronounced.

And that he will acquit, &c. the sheriff from all executions of prisoners, &c. And from all forfeitures, by reason of any misfeasance or non-feasance, &c. of him his Deputy, &c. And that he will not intermeddle with the execution of any Letters, &c. from the King, or his Privy Councel. Covenant safely to keep the prisoners until they are delivered to the Gaol, and to execute prisoners attainted.

And that the same *C D* shall and will within six daies next before the beginning of every Term, which shall be during the time of the said Sheriffwick, well and truly deliver and certifie unto the

That he will deliver a Certificate of all executions, and of the names and sums to be levied, and what is done therein.

the said *A B* a true note or Certificate in writing under his hand of all such Writs of Execution whatsoever, as before the Term shall be come to his hands, with the name and sir-name of the party and parties for whom the said execution is to be done; and also the name and sir-name against whom the same is to be executed, and the sum and sums of money thereby severally to be levied, and what is done therein, upon every such Writ or Process.

Grant, that the under-sheriff may in the name of the sheriff assign over any bond to be taken for appearance, &c. and commence action upon such bonds to inforce the parties to appear.

In consideration of all which premises, the said *A B* is contented and pleased that the said *C D* shall or may in the name of the said *A B* assign and set over any bond to be taken in the name of the said sheriff, for appearance or discharge of process to any person or persons, to the intent thereby to compel the parties to appear, to save and keep harmless the said sheriff and under-sheriff of any fine or amerciament thereby: And also that the said *C D* may commence or take his action upon any such bond, for the inforcing the said parties therein bound to bring forth the party or parties, for whose appearance they were become bound, thereby to save himself harmless of such fine and amerciaments, as shall be imposed or laid upon the said sheriff for not bringing forth the said party or parties; all which suits being lawfully taken for the causes aforesaid, the said *A B* doth covenant and promise to avow and justifie, and that it shall be lawful to and for the said *C D* his executors and administrators, and also for the said assigns, to retain to their own use their said sum or sums to be recovered by reason of the said Bonds, towards their charges and losses by reason of the not appearance of the said parties; so always that they and every of them, shall stand to the orders and directions of the said *A B* his executors or administrators for the over-plus thereof (if any shall be) And the said *C D* for himself, his heirs, executors and administrators, and every of them, doth covenant and promise to and with the said *A B* his heirs, executors, and administrators, to acquit and discharge, or else to save harmless the said *A B &c.* of and from all, and all manner of costs and damages which may in any wise be awarded, adjudged, decreed or recovered against him or them by reason of any such suit.

Covenant to save harmless the sheriff from all costs recovered against him upon any such suit.

Finally,

Finally, The said *C D* for himself, his heirs, *&c.* and every of them doth covenant, promise and grant, to and with the said *A B* his heirs, *&c.* and every of them by these presents, that he the said *C D* his executors, *&c.* shall and will on this side the Feast-day of the Purificati- on of our blessed Virgin *Mary*, which shall be in the year, *&c.* well and truly discharge and pay unto the Kings Majesty, his heirs, or Successors, all such sum and sums of money, duties and demands, as shall be due unto his Majesty, his heirs or Successors, wherewith the said *A B* shall be charged or chargeable as sheriff; or by reason of the said office of sheriffwick of the said County of *York*, and thereupon within three moneths next ensuing, shall procure unto the said *A B* his heirs, *&c.* a sufficient discharge and *quietus est*, in full discharge of his said office and account.

Covenant by the under-sheriff to pay all sums due to the King, and to procure a Quietus est, &c.

Provided alwayes, That if the said *C D* his Deputy or Deputies, Attorney or Attorneys, Clerk or Clerks, Deputy or Deputies, or any of them, at any time during the said office, shall commit, do, or suffer to be done, any manner of act or acts, thing or things whatsoever; or shall omit or leave undone any act or acts, thing or things whatsoever, belonging to the said office of sheriff of the said County of *York*, or by colour of the said office, by reason whereof the said *A B* his executors, administrators, or assigns, or his or their goods or chattels, lands, tenements, and hereditaments, or any of them, may in any wise be charged, or chargeable, above the sum of, *&c.* that then, and from thenceforth it shall be lawful to and for the said *A B* to grant, assign, and depute the execution of the said office of under-sheriff, for the residue of the said time then to come, to any person or persons: And that then, and from thenceforth, it shall be lawful to and for all such assignee and deputy, to have and take all the fees and commodities, profits and advantages, from thenceforth to the said office belonging, or in any wise appertaining; this Indenture, or any thing therein contained, or any other matter or cause concerning the assignment or deputation of the said under-sheriffwick, in any wise notwithstanding.

Proviso, that if the under-sheriff or his deputy, &c. shall do or leave undone any thing, &c. then it shall be lawful for the sheriff to grant the office to another.

And

Covenant by the sheriff to deliver cancelled to the undersheriff all the security given by him for the execution of his office, within three moneths after he shall have procured a Quietus est.

And the said *A B* for him, his heirs, *&c.* doth covenant and grant to and with the said *C D* his heirs, *&c.* by these presents, That he the said *A B* his heirs, *&c.* shall or will deliver, or cause to be delivered to the said *C D* his heirs, *&c.* to be cancelled, all such Bonds and obligations, wherein any person or persons shall be, or stand bound for, or in the behalf of the said *C D* to the said *A B* for, or in respect of the execution of the said office of the said undersheriffwick, or for the saving harmless of the said *A B* concerning the said office of High sheriff, within three moneths next after the said *C D* his heirs, *&c.* shall procure or deliver to the said *A B* his heirs, *&c.* a *Quietus est* out of his Majesties Court of Exchequer, for his discharge of his said office and the bond of the said *C D* to remain for the saving harmless of the said *A B* his heirs, executors and administrators, of amerciaments and other impositions touching the said office.

An agreement between the undersheriff, and one E F and for that purpose the sheriff hath security: Nevertheless for the better security, the sheriff doth by these presents bind the said E F &c:

And whereas by an agreement made between the said C D and one E F Gentleman, whom the said A B hath appointed under-sheriff for the County of *York*, it is acknowledged and affirmed by the said C D before the sealing of these Indentures, that the said C D his executors, administrators or assigns, is to pass the whole account of the said A B, and to execute, levy, gather up, extend, bring in, and pay all such seisures, extents, process, Chequer-silver, duties and demands, charges, sum and sums of money whatsoever, howsoever, or wheresoever, as the said A B his heirs, executors or administrators, shall be in any Court or Courts, place or places, any way chargeable unto, or withall, as sheriff of the said County of Y, at and according to the place and places, time and times, limited in these Indentures, for the said C D to do and perform; and thereupon shall also accordingly within six moneths next ensuing the time within limited, procure unto the said A B his heirs or assigns, a sufficient discharge, and *Quietus est* in full discharge of the said office and account.

And the ſaid A B hath to that end alſo ſecurity of two thouſand pounds from the ſaid C D, and his Sureties, for the performance of the like covenant amongſt other covenants in the Indenture ſpecified, which are made between the ſaid A B, and the ſaid C D; and yet notwithſtanding the ſaid A B for his better ſecurity doth by theſe preſents binde and tye the ſaid E F, his executors, adminiſtrators or aſſigns, to the doing and performing of the ſame. Alſo the ſaid A B is well pleaſed and contented, and for himſelf, his executors and adminiſtrators, doth covenant, promiſe, and grant to and with the ſaid E F, his executors, adminiſtrators, and every of them, that if the ſaid A B, his heirs, executors, adminiſtrators and aſſigns, ſhall or may be relieved, ſaved harmleſs, or indempnified for and concerning the fore-recited covenants and agreements, by the ſaid C D, his executors, and aſſigns, and his Sureties, that then he the ſaid A B, his executors, adminiſtrators or aſſigns, ſhall or will not take any benefit or advantage of the ſaid covenants and agreements againſt the ſaid E F, his heirs, executors, adminiſtrators or aſſigns, or any his Sureties, or any of them. In witneſs whereof, *&c.*

Covenant by the ſheriff not to charge the ſaid E F, &c. if he may be ſaved harmleſs by the under-ſheriff.

Or thus.

THis Indenture made, *&c.* in the year, *&c.* between A B of R in the County of *York*, Eſq; (now High-ſheriff of the ſaid County) of the one part, and C D of, *&c.* in the ſaid County, Gentleman, of the other part. Whereas our Sovereign Lord the King, by his Majeſties Letters Patents under the Great Seal of *England*, bearing date the ſeventeenth day of this inſtant *November*, hath made, nominated, conſtituted, aſſigned, and appointed the ſaid A B to be High-ſheriff of the ſaid County of *York*, during his pleaſure.

Now this Indenture witnesseth, That the said *A B* for the good opinion which he hath conceived of the said *C D* and of the trust and confidence which he reposeth in him, hath deputed, assigned, constituted and ordained, and by these presents doth depute, assign, constitute and ordain him the said *C D* to be his under-sheriff, of, for, and in the said County of *York*, during all the time that he the said *A B* shall be and remain sheriff of the said County, by force of the Letters Patents aforesaid; and doth hereby authorize the said *C D* to serve, exercise, and execute the said office of under-sheriff of the said County under him the said *A B* in his name during all the time aforesaid. And the said *A B* as far as in him lies, doth also by these presents grant unto the said *C D* that it shall and may be lawful to and for the said *C D* by force hereof to appear, answer, and serve, and minister as under-sheriff of the said County of *York*, for and in the name of the said *A B*, as well in all places of the said County of *York*, as in all and every the Court and Courts within the Kingdome of *England*, and before all and every the Justices of *Oyer* and *Terminer*, Justices of Assize and Gaol-delivery, Justices of the Peace, Coroners, and Escheators, and other Officers and Commissioners of this Kingdome, where the said *A B* by vertue of the said office of sheriffwick for the said County of *York* shall be bound, or ought to appear, answer, serve, or be attendant; and to break open, answer, return and execute for him the said *A B* in his name all process, writs, precepts, warrants, mandates, and commandments to the sheriff of the said County, directed, or hereafter to be directed out of any the Courts aforesaid, or from any the Justices, Coroners, or Escheators aforesaid; and to do, perform, and execute for him the said *A B* and in his name, all and every thing and things, which by him the said *A B* by vertue of his office of sheriffwick of the said County of *York*, is to be performed, executed, and done: saving alwayes, and excepting the said *C D* shall not by vertue thereof be authorized to open, return, send, or execute any writ or writs for electing any Knights of the shire, or Burgesses of Parliament for the said County of *York*, or any Borough within the said County; nor open, execute, or answer any the Letters of the Kings Majesty, or the Councel, to be directed unto the said sheriff or

Covenant, that the under-sheriff shall not execute any writs for Knights for the Parliament; nor open, execute, or answer any letters of his Majesty, or the Councel.

of the said County of *York*, without the special warrant, direction or commandment of him the said *A B* for that purpose.

And further the said *A B* doth by these presents grant unto the said *C D* for the executing of the said office, all the fees, duties, and profits to him due, arising and growing by the County-courts to be kept within the said County of *York*, and all other fees, rewards, duties, allowances and profits incident to the office of sheriffwick, or thereunto belonging, for which the said *A B* is or shall be allowed by the Common Laws of this Nation, or customes of the said County, either for the opening, returning, or executing of any writ, precept or process, warrant or commandment whatsoever; or for other executing of the said office, and which have not been accepted heretofore, the ordinary fees of any other his Bailiffs or other officers, to have and enjoy the said duties, fees, rewards, allowances and other profits to his own use, without an accompt to be rendred to the said *A B* his executors or administrators for the same.

Covenant, that the under sheriff shall receive all fees to his own use.

And the said *C D* for and in consideration of the benevolence aforesaid, and for the free gift and grant of the said *A B*, doth for himself, his heirs, executors, administrators and assigns, and every of them, covenant, promise, grant and agree, to and with the said *A B* his heirs, executors, and administrators, and assigns, by these presents, that he the said *C D* shall and will at all times from and after the day of the date of these presents, duly, diligently, lawfully and carefully serve the said *A B* as his Deputy and under-sheriff, of, in, and for the said County of *York*, without doing or committing any kind of extortion, or wilful misbehaving of himself in the said office; and shall and will duly and respectively execute the said office of sheriffwick, under the name of the said *A B* in all points, so far forth as these presents, the Laws of the Land, or other licence or commandment of the said *A B* shall warrant or give liberty; and shall and will in the name of the said *A B*, and as his deputy in the said office of under-sheriff of the said County of *Y*, be answerable, attendant and minister in all Courts of our Sovereign Lord the King by and before the said Justices of Assize, Justices of the Peace, and all Commissioners, Escheators, Coroners, and

Covenant to execute the office without committing extortion, &c.

other officers of our Sovereign Lord the King, before whom the said *A B* shall be bound or required to minister, answer, or be attendant, in respect of the said office of sheriffwick for the said County; and shall and will execute and make answer, true and sufficient return of all such processe, writs, precepts, and commandments directed from his said Majesty, or from every and any of the said Courts, Justices, Commissioners, Escheators, and other officers aforesaid, as shall be delivered to, or come to the hands of him the said C D, his deputy or deputies, assignee or assigns, or shall and will discharge and save harmless the said *A B*, his heirs, executors and administrators, and his, and their, and every of their lands, tenements, goods and chattels, of and from all fines, issues and amerciaments, and other penalties, forfeitures, paines corporal and pecuniary whatsoever, whereby or wherewithall the said *A B*, his heirs, executors or administrators, or his or their lands, tenements, goods or chattels shall or may be charged or chargeable for his the said *A B*, or the said *C D*, not executing, not filing, neglecting, mis-executing, evil returning, not serving, mis returning, or mis filing any of the said writs, processe, precepts, warrants, or commandments aforesaid; or for the absence, evil attendance, or not attendance of the said *A B*, or of the said C D, or his Deputy as aforesaid, or other misdemeanours in the executing, nor executing, or mis-executing of the said office in any thing which the said C D might by vertue of these presents by himself or his deputies execute or perform, other then from such fines, issues, amerciaments, and other penalties as shall be imposed or adjudged upon or against the said *A B*, for or in respect of any offence, fault or negligence by the said *A B*, at any time after the day of the date of these presents committed, omitted or done, or to be committed, omitted, or done by himself in his own person, or by any other, except the said C D by his the said *A B* his commandment or appointment, without the consent of the said C D: and that the said C D shall himself, or his sufficient deputy or deputies duly and lawfully keep, or cause to be kept within the said County of Y, all and singular

Covenant to execute and return all processe, writs, &c.

Covenant to save the sheriff, &c. harmless, from all fines, issues, &c. for not executing, mis executing, &c. any writs, &c. or other misdemeanors

singular County-courts of the said County, at such time and places as heretofore hath been accustomed: and that the the said C D shall and will make and appoint one or more attorney or attorneys, depury or deputies of Record in the Courts of Record, now commonly called the Kings Bench, Common Bench, and Exchequer, and in all other Courts and offices wherein attorneys are commonly appointed; and so shall and will ordain, appoint and make one or more able depury or deputies for him the said A B in every hundred within the said County of Y, according to the Laws and Statutes in these cases provided, so that the said A B shall not hereafter be liable to any penalty or forfeiture for want of any such attorney or deputy; and shall and will at his own proper costs and charges appear, and make ready all such place and places where the assizes, Gaol-delivery, or Sessions shall be from time to time holden, meet and convenient Courts, Bars, and all other things necessary and convenient for the Justices of assize, and other Justices to keep their assizes and Gaol delivery and Sessions in, and shall and will from time to time give notice in convenient time to the said A B of every such time and times, place and places, where the personal attendance of the said A B shall be requisite and necessary, so as the said A B may be personally present at such times and places, when and where his personal appearance and attendance shall be necessary.

Covenant to keep all the County courts of the said County at usual times and places, &c. And to appoint attorneys or deputies of Record in the Courts of Record; and constitute deputies in every hundred, &c. Covenant to make ready at his proper charges, the place where the assizes, &c. shall be holden. And shall give notice to the sheriff where his personal attendance shall be requisite.

And furthermore, that the said C D by and during the continuance of the said office, shall and will well and truly collect, levy, gather, and seize to the use of our Sovereign Lord the King all the goods and chattels of felons and fugitives, and all persons outlawed, and put in exigent, and of all persons attainted and convicted of treason, murder or felony, which shall happen within the said County of Y during the time aforesaid, which shall be due or forfeited to our Sovereign Lord the King by any wayes or means aforesaid; and shall and will from time to time well and truly collect and gather up all

Covenant to collect and levy goods of felons and fugitives, &c.

And to collect and gather up all fines, amerciaments, which he shall have warrant to levy.

fines, amerciaments, extracts, certainties, fee-farms, pipe-silver for license, concord for fines, green-wax, and all other sum and sums of money, which to the collection of the said *A B* by reason of the sheriffwick of the said County shall appertain or belong, and which the said *C D* shall have warrant or lawful authority to seize, levy, or collect, or which he shall have notice of, and may reasonably come by; and thereof, and of every part thereof, and of all other the issues and revenues of the said County, and of all sums of money due, or hereafter during the continuance of the said office of sheriffwick of the said County doth or may appertain, shall and will to his Majesty in the Court of Exchequer aforesaid, yield and give

And shall accompt in the Court of Exchequer

just accompt, and also that he the said *C D* his executors or administrators, at such daies and terms as he the said *A B* is or shall be required to enter into accompt of the Court of Exchequer, for, or touching the said office, the said *C D* shall and will enter into accompt in the said Court of Exchequer in the name of the said *A B*, for and concerning the said sheriffwick of the said County of *T*; in and upon which accompt, the said *C D* his executors

And finish the same accompt without any allowances of the sheriff. And shall pay into the Exchequers receipt all sums in arrearages; and shall obtain a Quietus est at the under-sheriffs charges.

and administrators, shall and will truly answer all such debts, duties, and sums of moneys, as the said *C D* his deputies, officers, or servants, or any of the Bailiffs of any of the Hundreds of the said County shall have received, or might have received, or wherewith the said *A B* as sheriff of the said County shall be any ways charged or chargeable with upon the same accompt; and the same accompt shall and will, at his the said *C D* his own costs and charges, prosecute with effect, until the same accompt be fully finished and concluded, without demanding any allowance or allowances of the said A B his executors or administrators for the same: and also that the said *C D* his executors and administrators shall and will pay into the Receipt of Exchequer all such sums of money as upon the said accompt shall be found in arrearages, within one year next after the feast of S. *Michael* next ensuing the date hereof; and in the name of the said A B obtain a lawful discharge, and *Quietus est*, out of the said Court of Exchequer for him the said A B, and the same shall and will deliver unto the said A B his heirs, executors, or assigns, for a full discharge of him the said A B his heirs, execu-

tors,

rors, administrators and assigns, of and concerning the said sheriffwick of the said County of *Y*, within one year next after the said feast of *S. Mich.* and that the said C D his heirs, executors, administrators and assigns, or some or one of them, shall and will, at some or one of their own proper costs and charges, disburse and pay for the said A B all and all manner of fees, duties, charges, sum and sums of money, rewards, gratuities, and demands whatsoever, which shall be required, demanded, or demandable of the said A B as due or accustomed to be paid or given by the sheriff of the said County, for, or by reason of the said accompt, without demanding any allowance or allowances therefore of the said A B his heirs, executors, administrators or assigns: and the said C D doth further for the consideration aforesaid, for himself, his heirs, executors, administrators and assigns, and for every of them, covenant, promise, grant, and agree to and with the said A B his heirs, executors, administrators and assigns, by these presents, that the said C D his executors or administrators, shall and will from time to time, and at all times hereafter, well, duly, and truly satisfie and pay all and singular such sum and sums of money as he the said C D or any deputy Clerk or Clerks, Bailiff or Bailiffs, Substitute or Substitutes under him, shall at any time and times, and all times levy and receive, by vertue or reason of any writ or writs, process of extent, *Liberate*, *Capias ad satisfaciendum*, *Fieri facias*, *Elegit*, *Distringas nuper Vice comes*, against any former sheriff, or any other writ or writs of execution or warrants whatsoever, according to the purport and true tenure of any such writ or writs, warrant or warrants respectively, and in such manner as by the same respectively shall be limited, required or appointed; and shall from time to time sufficiently save harmless and defend the said A B his heirs, executors and administrators, of, for, and from all and every such sum and sums of money as aforesaid.

Covenant, that the said C D shall truly satisfie and pay all sums of money as he or any deputy &c. shall levy and receive by vertue of any writ, process of extent, cap. ad sat. Fierifac. Elegit, &c. Covenant, that the said C D shall at his proper costs conduct all prisoners, as shall be required.

And further, he the said C D his heirs, executors, administrators or assigns, shall and will at his and their own proper costs and charges, conduct and safe delivery make of all such prisoners as are, or hereafter shall be in the custody of the Gaol for the said County of *Y* to such person and persons, and to such place and places as the said A B

shall by writ, warrant, or other precept or commandment, or by vertue and in respect of his said office, be commanded or bound to deliver the same.

And shall at his proper charges execute all persons convicted and put in execution.

And further, shall and will also at his and their own proper costs and charges execute, or cause to be executed, all such persons as at any time during the time aforesaid, shall be convicted, and put in execution, according to their several judgments, if the same person or persons be not by any lawful authority reprieved in the said Gaol.

Covenant that C D shall deliver by indenture to the successor of A B all prisoners then in the custody of A B. And also all writs, process, warrants, and other things which shall be in his custody in respect of the said office.

And the said C D doth further for himself, his heirs, executors, administrators and assigns, and every of them, covenant, grant, promise and agree to and with the said *A B*, his heirs, executors, administrators and assigns by these presents, that he the said C D, his executors and administrators, shall and will upon the discharge and giving up of the said office to such as shall succeed in the said office of sheriffwick, of and for the said County of *Y*, in due form of Law deliver, or cause to be delivered by Indenture to be made between the said *A B* and his Successors in the said office, to the said Successor of the said *A B* in the said office, or to his deputy for the time being, all such prisoners as then shall be in the custody of the said A B, or any of his Deputies or Ministers, with the causes of their detainments and imprisonments, and all such iron implements and things as shall be in the custody of the said C D, belonging to the common Gaol of the said County, or to the officers of the same: and also all writs, process, warrants, and other things which then shall be in his hands and custody, in respect of the office of sheriffwick, of, in, and for the said County of *Y*.

And the said C D doth further for himself, his heirs, executors, administrators and assigns, covenant, promise, grant

rant and agree to and with the said A B, his heirs, executors and administrators by these presents, that he the said C D, his heirs, executors or administrators, shall and will from time to time, and at all times hereafter, discharge, defend, and save harmless as well the said A B, his heirs, executors and administrators, and his and their lands and tenements, goods and chattels, as well against the King, and all other whatsoever, of and from all manner of pains corporal and pecuniary, forfeitures, fines, amerciaments, debts, accounts, duties and demands whatsoever hereafter lawfully to be commenced, prosecuted, imposed, demanded or demandable of or against the said A B, his heirs, executors or administrators, or his or their lands, goods, tenements and chattels, for or by reason of any escape of any prisoner or prisoners whatsoever, now under execution or under arrest, or hereafter to be had in execution, or under arrest, for any manner of debt, damage, trespass, account, or other duties or wrong; or for any treason, felony, or other offence whatsoever, or for any other, or by reason of not appearance of any person arrested at the day limited for the appearance in any Court or Courts, or before any Judge or Judges, or Justices whatsoever, or for or by reason of any false return, not return, or mis-return of any writ, warrant or process, or for any other misbehaviour, negligence, or forbearances of the said C D, his bailiffs or officers in executing, or negligence in executing, or not in executing of the said office of sheriffwick for the said County of T, of, or for, or by reason of the not levying, answering, or not paying of any sum or sums of money, which shall, or may, or ought to be collected or received by vertue or by reason of the said office of the sheriffwick of the said A B, or having relation thereunto, or by reason of any writ or writs of assistance for the levying of any sums of money wherewith the said A B shall or may be charged or chargeable, of, or for any matter, clause, or thing having relation to the said office: and to the intent that the said C D may the better perform the execution of the said office, the said A B is contented and pleased, and doth hereby grant unto the said C D, that he the said C D shall have to his own

Covenant to discharge A B, &c. and his goods, &c. from all manner of pains, forfeitures, fines, &c. for or by reason of any escape of any prisoner, or for not appearing of any person arrested at the day limited, &c. or for any false return, not return, or mis-return of any warrant, &c. or for negligence of the said office, by reason of the not levying, answering, or not paying of any sums of money, &c.

Grant, that the said C D shall have to his own use the benefits of Bail-bonds and bailiffs bonds and all other bonds and covenants which are or shall be made to the said A B, except, &c.

own use the benefit of such bonds and covenants as shall be taken of any person or persons, wherein the same person or persons shall become bound unto the said *A B* Sheriff of the said County of *Y* with condition for the or any of their appearance in any Court, or elsewhere before any Commissioners of his Majesty: and of all obligations taken, or to be taken of any bailiffs, or their sureties; and of all other bonds and covenants which are shall be made to the said *A B* as the Sheriff of the said County of *York* (except the covenants herein contained and the bonds and obligations taken, or to be taken for the performance of the said covenants, and every of them (except before excepted) and shall and may sue and prosecute the same in the name of the said *A B* his executors and administrators, at the proper costs and charges of the said *C D* his executors, administrators and assigns and the moneys thereof and thereby recovered, to have take and detain, to his and their own use and uses, without any account thereof to yield or make to the said *A* his heirs, executors, administrators or assigns; all which said bonds and covenants (except before excepted) he the said *A B* doth for himself, his heirs, executors, administrators and assigns, covenant, promise, grant and agree to and with the said *C D* his executors and administrators, by these presents, that neither he the said *A B* nor his heirs executors or administrators, or any of them, shall release, acquit, nor discharge the said bonds or covenants nor any action, plaint or suit thereupon to be brought, or any judgment or execution thereupon to be had, without the assent of the said C D his executors, administrators or assigns, unless he the said *A B* his heirs, executors or administrators shall be enjoyned thereunto by order of course of Law or Equity.

Covenant, that C D shall keep harmless A B his, &c. of and from all costs and charges, and damages, &c.

And the said C D doth for himself, his heirs, executors and administrators, covenant, promise and grant, to and with the said *A B* his heirs, executors and administrators, by these presents, that he the said C D his executors and administrators, shall and will from time to time, and at all times hereafter, save, defend, and keep harmless the said *A B* his heirs, executors and administrators, and his and their lands, tenements, goods and chattels, of and from

rom all costs, charges, and damages which may arise and happen, by reason of any bill in Equity, or of any nonsuit or judgment obtained by any person or persons of, or upon any of the said covenants, obligations, or bonds to be taken for appearance as aforesaid; or by reason or means of removing any action or suit in the name of the said A B his heirs, executors or administrators, against any person or persons upon the same covenants, obligations, or any of them.

And whereas it is agreed by and between the said parties to these presents, that the said C D shall become bound by obligation to the said A B in the penal sum of 500 l. conditioned for the true performance of the covenants, articles, and agreements in these presents contained, on the part and behalf of him the said C D his heirs, executors and administrators to be performed, and shall also procure five sufficient sureties, before the thirtieth day of *January* next ensuing the date hereof, to become bound unto the said A B in the several penal sums of 100 l. apiece, with the like conditions as aforesaid. *Bond to perform the covenants.*

Now the said A B is contented and pleased, and doth by these presents for himself, his heirs, executors, administrators and assigns, covenant, promise, and grant to and with the said *C D* his heirs, executors, administrators and assigns by these presents, that he the said A B his heirs, executors or administrators, or some or one of them, shall and will within the space of one year next after the said C D his heirs, executors or administrators, shall deliver or cause to be delivered unto the said A B his heirs, executors, administrators or assigns, the said *Quietus est* before in these presents mentioned, the said A B his heirs, executors and administrators being first sufficiently and reasonably discharged and saved harmless of and from all the payments, penalties, fines, amerciaments, damages, dangers, and other demands before in these presents mentioned, upon the reasonable request of the said C D his heirs, executors or administrators, shall deliver or cause to be delivered up the said obligations so to be made by the sureties of the said C D as aforesaid, to such Surety or Sureties respectively, and to their respective heirs, executors or administrators, to be cancelled. *In witness whereof, &c.* A B *grants to* C D, *that* A B *without the space of one year after* Quietus *est shall deliver up the obligations made by the sureties of the said* C D, *&c.*

The

The form of the Condition.

THE Condition, *&c.* That whereas our Sovereign Lord the King, *&c.* by his Letters Patents bearing date the, *&c.* in the year of our Lord, *&c.* did appoint, nominate, and make the within named *A B* High sheriff of the County of *York*, which said *A B* afterwards by his Indenture bearing date, *&c.* did ordain, depute, constitute, and make the within bounden *C D* his deputy and under-sheriff of the said County of *Y.*, as by the same Indenture more plainly at large doth and may appear: if the said *C D*, his heirs, *&c.* and every of them do at all times hereafter, and from time to time, for ever clearly acquit, exonerate, and discharge, or otherwise sufficiently save and keep harmless the said *A B*, his heirs, executors and administrators, and every of them, and his and their goods, chattels, lands, tenements, possessions and hereditaments, and every of them, and of, and from all and every of the sum and sums of money wherewith the said *A B* shall be charged, by reason of the said office of sheriffwick, and shall fall out not to be answered upon the accompts; and of and from all action and actions, plaint or plaints, or debt or debts that shall be commenced against the said *A B*, his heirs, *&c.* by reason of any escape or escapes committed, of any prisoner or prisoners arrested, and not committed to the common Gaol of the said County, or afterwards by the act or negligence of the said C D, or any the bailiff or bailiffs, or any his servants or deputies; and of and from all actions, suits, costs, losses, damages, hinderances, and demands whatsoever, which shall or may at any time or times hereafter come, grow, or be to or against the said *A B*, his, *&c.* or his or their goods, chattels, lands, tenements, possessions and hereditaments, and every or any of them, for, or by reason of the premises, or any of them; That then this present Obligation, *&c.*

Or

Or thus.

THE Condition, &c. That whereas the above-named *A B*, Sheriff of the County of *Y*, hath assigned and deputed the above-named *C D* his under-sheriff: If therefore the said *C D*, the above-bound *E F*, and *H I*, their heirs, executors and administrators, and every of them, do at all time and times hereafter, save and keep harmless and indempnified as well the said *A B*, his heirs, executors, administrators and assigns, and every of them, as also the lands, tenements, hereditaments, goods and chattels of the said *A B*, of, for, touching and concerning the returns and executions of all such process, writs and warrants, of what nature soever they be, as are or shall be directed to the sheriff of the said County of *Y*, and shall be brought and delivered, or offered to be delivered to the said *C D*, during the time that the said *A B* shall be sheriff of the said County; and of and from all issues, fines and amerciaments which shall happen to be imposed or taxed upon the said *A B*, for and concerning the not executing, wrongful executing, or detaining in his hands any writs, process, or warrants, and of, for, and concerning all escapes of all and every person or persons that shall be arrested or apprehended by vertue of any such process, writ or warrant, during the time that the said *A B* shall continue sheriff of the said County of *Y*. And also if the said *C D*, *E F*, and *H I*, their heirs, executors and administrators, and every of them, shall save harmless and indempnified the said *A B*, and his heirs and assigns, and his and their lands, goods and chattels, of, for, or concerning all such accompt and accompts as the said *A B* is or shall be charged withall as sheriff of the said County of *York*, to our Sovereign Lord the King, his Heirs or Successors, in any of his Majesties Courts,

Courts, and of all sums of money which shall be levied or received by the said C D as under sheriff of the said A B, or any bailiff, or other person, by the direction or assent of the said C D to the use of our Sovereign Lord the King, his Heirs or Successors: That then, *&c.*

But they are commonly made as all other Bonds are for the performance of Covenants, in this manner.

THE Condition, *&c.* That if the above-bounden C D do well and truly observe, perform, fulfil, and keep all and singular covenants, grants, articles, payments, promises and agreements, which on the part and behalf of the said C D his heirs, executors, *&c.* or any of them, are to be observed, performed, fulfilled, or kept, contained, written, declared, or specified in one pair of Indentures bearing date, *&c.* made between the said C D of the one party, and the within-named A B of the other party, according to the tenure, purport, true intent and meaning of the said Indentures: That then, *&c.*

An Indenture for the setting over of Prisoners and Writs between two Sheriffs.

THIS Indenture made the tenth day of *December*, in the year, *&c.* between A B Esquire, late sheriff of the County of *York*, of the one part, and C D Esquire, now sheriff of the said County, on the other part; *Witnesseth*, That the said A B by vertue of his Majesties writ of discharge of his late office to him directed, hath delivered and set over unto the said C D these writs following; that is to say, a *Capias* against L M returnable in 8 dates of S. *Hillary*, at the suit of N O, *&c.* together with the bodies of E F in execution at the suit of I H for a debt of an hundred pounds; and G R at the suit of R S in execution for forty pounds; and W P in execution as well at the suit of S I for a debt of ten pounds, as also at the

of *T W* for a debt of thirty pounds, &c. *In witness hereof, &c.*

An Indenture for the Knights of the Parliament.

HÆc Indentura fact. in pleno Com. Ebor. tent. apud Castr. Ebor. in Com. prædicto die lunæ vicesimo tertio die Octobris anno Regni Dom. nostri *Caroli* secundi Dei gratia *Angliæ, Scotiæ, Franciæ*, & *Hiberniæ* Regis, Fidei Defensoris, &c. xiiii, inter A B Ar. Vic. Com. prædicto ex una parte, & C D Ar. E F Ar. G H Ar. &c. & mult. al. person. Com. prædict. & Elector. duor. Milit. ad Parliament. in breve huic Indentur. consut. specificat. ex altera parte, qui ut major pars totius Com. prædict. tunc ibidem existen. jurat. & examinat. secund. vim, formam & effect. diversorum Statut. inde edit. & provisis, elegerunt R S & T W Mil. infra Com. prædict. commorantes, gladiis cinct. Milites habiles, & magis idoneos & discret. dantes & concedentes prædictis duobus Milit. plenam & sufficient. potestatem pro se & totam Com. prædicto ad faciend. & consentiend. hujus quæ ad Parliament. in dict. brevi content. de Comm. Consil. Regni dict. Dom. Regis nunc Angl. contigerit ordinari super negotiis in dicto brevi specificatis. In cujus rei testimon. uni parti hujus Indentur. penes dict. Dom. Regem remanen. partes prædict. sigilla sua apposuerunt; alteri vero parti ejusdem Indent. præd. Vic. sigillum suum apposuit. Dat. die anno & loco suprædict.

An Indenture upon chusing of a Burgess to serve in Parliament.

HÆc Indentura fact. &c. inter A B Ar. Vic. Com. Ebor. ex una parte, & Burgenses Burgi & Vill. de S, &c. ex altera parte, Testatur, quod prædict. Burgenses secund. proclamationem per eundem Vic. fact. pro eligend. Burgens.

in

in quolibet Burgo five Vill. infra dict. Com. die dat. harum Indentur. apud S eligerunt, nominaverunt, & constituerunt C D & E F Ar: Burgenses ejusdem Vill. de S, ad observantiam advisament. & consil. dand. ad supremam Curiam Parlam. Majestatis suæ prædictæ tenend. apud Westm. vicesimo secundo die Augusti prox. sequen. dat. harum præsentium. In cujus rei testimonium præfat. Burgens. Municipes his præsentibus Indentur. sigill. sua apposuer. & nomina sua subscripsi. &c.

A Condition for the executing of a Gaolership.

THe Condition, &c. That if the within-bounden C D his executors and assigns, do well and truly execute and use the office of Gaolership at the Castle of *York* for the said County; and also do well, surely, and safely keep all and every such person and persons now being in the prison of the Kingdome of *England* in the said County of *Y*, or that hereafter shall be committed to the said Gaol, or to the said *C D*: and further, that if the said C D, his executors or assigns, at his or their proper costs and charges, do safely carry, bring, and re-carry all persons in the said Gaol now being, or that at any time hereafter shall be prisoners there, to any such place or places as the said sheriff or his assigns shall appoint or name within the said County of *Y*: and furthermore, be truly diligent and attending, aiding and assisting the said sheriff, and his undersheriff and deputies, at all and every time and times when any execution shall be done within the said County, to, and upon any person or persons attainted, or to be attainted for treason, felony, murder, or heresie, or otherwise, or for any other cause, unto the end of the execution: and further, if the said C D, his executors and assigns do discharge and save harmless the said sheriff, his heirs executors, administrators and assigns, against our Sovereign Lord the King, and against all and every other person and persons, and from all manner of escapes, damages and losses, fines, issues, and amerciaments, which by the negligence or otherwise of the said C D, his executors or assigns,

ns, that the said Sheriffe shall or may in any wise be arged or incumbred with, or ought to be charged by the w, by reason of the office of the Sheriffwick of the said unty from time to time, and do content and pay to the d Sheriffe, his Executors or Assigns, all such sum and ns of money, as the said Sheriffe, his Heires, Executors, Assignes, ought to pay to his Majesty, or to any other rson or persons, or be due to the said Sheriffe, by reason the said Office of Goales ship, That then, &c.

Or thus.

THe Condition, &c. That if the above bounden *A. B.* Goaler to the said Sheriffe of the County of *York*, do from time to time receive and take into his ward and stody within the Goale at the Castle of *York*, in the unty of *York* aforesaid, all such person and persons, pri-ner and prisoners, which shall be committed or sent to said Goale, or committed to the ward and custody of said Goaler, by the said Sheriffe or his Deputy, or by Justice or Justices of Peace, or by any other having wful authority to commit persons or prisoners to the d Goale, and the said persons and prisoners so commit-d as aforesaid, do well and truly, duely and sufficiently his own proper person, or by his sufficient Deputy or puties, so keep, that the said Sheriff, his *Heirs* and *Ex-utors*, and all the *Lands*, *Tenements*, *Goods* and *Chattels* the said Sheriffe be saved harmless from all losses, penal-s, amerciaments and damages whatsoever, as well a-inst our Lord the King, as also against all other p-r-on d persons, of, for, and concerning the custody and keep-g of the said Goale and Prisoners within the said Castle *York*, and likewise doe discharge, save and keep harm-s the said Sheriffe, his *Heirs* and *Executors*, and all those Lands, Tenements, Goods and Chattels from time to e, and at all times hereafter, of and from all and every cape and Escapes, as well of convict persons, Reprieves, Felons, and of all other persons now committed for contempts, condemnations, trespasses, or misdemean-s which may happen, or chance hereafter to be com-itted to the said Goale, for any the causes aforesaid, du-g the time the said *C. D.* shall be Sheriffe of the Cou n'y

of *York*, and likewise that the said *A. B.* or any other his consent, privity, or appointment, in any wise le baile or mainprize, any prisoner or prisoners to him co mitted as aforesaid, not baylable by the Laws of the N on, without the special commandment or appointme of the said Sheriffe; And if the said *A. B.* or his sufficie Deputy, be ready to give his attendance upon the s Sheriffe and his Deputy at all times necessary and conv ent, and all and every lawful thing and things that he sh be required to do by the said Sheriffe or his Deputy touc ing or concerning the &c. affairs and business wherew the said Sheriff is, or shall be charged or employed, in or bout the keeping of the said Goal or Prison, that then, &

Articles betwixt the High Sheriffe, and a Bayliffe of a W pentake, or Hundred.

ARticles of Agreement indented and made the ten of *March*, in the year, &c. *Between A B.* of *R.* in t County of *Y.* Esq; High Sheriff of the said Coun of the one part, and *C. D.* of *A* in the said County, Gen of the other part.

To be bayliff during the pleasure of the Sheriff.

Whereas the said *A. B.* by his deputation under the se of his Office, hath constituted and appointed the said *C.* to be his Bayliff within the Wapentake of *Ewcross*, to execu and enjoy the same Office only during the pleasure of t said *A. B.* Now it is covenanted and agreed between the s parties, and the said *C. D.* for himself, his *Executors*, *A ministrators* and *Assignes*, for the consideration aforesai doth covenant and grant unto and with the said *A. B* h *Heires*, *Executors*, and *Administrators* in manner following

To execute and return Writs.

First, That the said *C. D.* shall and will during suc time as he shall execute the said Office, well and sufficient ly perform and doe whatsoever to the sayd office belo geth, as well within the said Wapentake as without; An shall with speed and secrecy serve and execute, or cause t be served and executed all and every precept and warra to him directed by the said high Sheriffe or Under-sheriff And shall make a true return thereof to the said Under sheriffe, or his Deputy, by the space of four days before the respective returns thereof: And shall likewise from time to time save and keep harmless the said high Sheriffe, his

Heires

ires, Executors, and *Administrators*, Lands, Tenements, oods and Chattels, of and from all Escapes, Amercia- nts, Fines and sums of money, or other charges and in- mberances whatsoever, which shall or may be imposed happen upon the said high Sheriffe, for or concerning executing, or returning of them, or any of them.

2. *Item*, That he the said *C. D.* his *Executors* or *Assignes*, *He shall* all well and truly pay, or cause to be paid to the said *truly pay* nder-sheriffe or his Assignes at his Office in the City of *Y* *to the Un-* else where, the Blanck-farme due to his Majesty within *der sheriff* he Wapentake, within 6 days next after the Annunciation *the Blanck* our blessed Virgin *Mary*, and St. *Michael* the Arch-An- *farm with-* el, by equall portions; and shall likewise at his own pro- *in the said* per costs and charges faithfully and truly levy, collect and *Wapentake* ther all and every sum and sums of mony of what nature *& levy all* ever within the said Wapentake, as are, and shall from *money* ime to time grow due & payable to his Majesty, or which *within the* e and shall be within the charge of the said Sheriffe, and *said Wa-* streated, and given in charge to the collection of the said *pentake* *C. D.* or his Assignes; and shall within three weeks next *due to the* fter my Estreat and warrant to him directed for the levy- *King.* ng and collecting thereof, pay, or cause the same to be paid nto the said Sheriffe or his Deputy at *Y.* or else-where, or ake his personal appearance there to give a just account, or what cause he hath not collected nor levied the same.

3. *Item*, That the said *C. D.* shall diligently enquire of *To secure* the Goods and Chattels of all Felons and Fugitives, and of *goods wai-* all persons outlawed and condemned, and of goods and *ved and* chattels waived, estrayed, and escheated within the same *forfeited.* Wapentake. And the same shall lawfully inventory and seise into his Majesties hands, as Bayliff of the said Wapen- take; and shall likewise truly account for, and deliver, or cause to be delivered unto the hands of the said Sheriff or his Deputy the goods so seised and inventoried, within one month next after such seisure and inventory made.

4. *Item*, That the said *C. D.* shall from time to time give *To summon* lawful summons and warning to all such persons, Jurors, *Jurors.* and Free-holders, as shall from time to time by warrant from the said High-Sheriffe or Under-sheriffe, be appoint- ed to appear before his Majesty, his Justices of Assize or Goale-delivery, Justices of the Peace, or before any other person or persons, having any lawful authority to sum-

mon the same persons, and that he himself shall personally attend at the same Assize and Goale-delivery, Sessions of the Peace, and at the Country Court, to make his just returns, and doe all the services belonging to the Bayliff of Wapentake, if he be in health, or able to perform the same or otherwise by his sufficient Deputy to be allowed under the High Sheriffs seale of Office.

To make a book of Free-holders. And shall save harmless the Sheriff from all issues and amerciamedts, &c. for not returning or misreturning of any Free-holder.

5. *Item*, That he the said *C. D.* shall before the 12 day of *January* next coming, deliver, or cause to be delivered unto the hands of the said High Sheriff, or Under-sheriff one paper-book fairly written, containing the names, sirnames and additions, together with the dwelling places of all such Free-holders as are now dwelling and resident within the said Wapentake of *Ewcross*, and shall likewise save and keep harmless the said Sheriff, his lands and tenements, goods and chattels, of and from all issues and amerciaments which shall or may be charged upon them, or any of them, for and by reason of returning, not returning or mis-returning of any Free-holder or Free-holders by the said *C. D.* or his Deputies.

To secure persons arrested.

6. *Item*, That the said *C. D.* his Deputy or Deputies shall bring or cause to be brought to the Castle of *Y.* all such person and persons, as shall by them or any of them be arrested by vertue of any warrant, or Warrants, upon any *Capias utlagatum*, or *Capias ad satisfaciendum*: And that likewise upon all arrests of persons baylable take sufficient bond with two sureties, for their appearance at the return of the Writ, and the said Bonds so taken shall deliver unto the Under-sheriff or his Deputy, by the space of six days before the respective days of their several appearances.

To secure goods levied.

7. *Item*, That neither the said *C. D.* nor any of his Deputies make any sale of any goods by him or them, or either of them, seised or taken for any of his Majesties debts or upon any execution between party and party. Nor shall detain or keep in his or their hands any goods so taken by the space of 4 days, but shall bring, send, or deliver the same unto the said Under-sheriff, his Deputy or Deputies, with a true Copy of their appraisements, and the names of the appraisers, in case the owners or some friends for them shall deny to take them as they are apprized, or to pay the debts and sums for which they were so seised and

nd taken, together with the reasonable charges expended
oncerning the same.

8. *Item*, That the said *C.D.* his Deputy and Deputies and *To account*
very of them shall and will from time to time within six *for and*
ays after notice or command to him or them given by the *pay fees*
aid High Sheriffe or his Deputy, repair and come to his *due to the*
ffice at *Y.* or else-where, and then and there make a just *Sheriff.*
nd perfect account, for and concerning all Fees as well for
rests and Perquisites of Courts, as for all other dues and
rofits unaccounted for whatsoever, and which he and they
r any of them, shall have received and taken, during such
imes as he the said *C.D.* shall continue Bayliffe of the said
Wapentake, which of right belongeth unto his Majesty, or
he said now Sheriff, or his Under-sheriff. And the said
igh-Sheriff, or Under-sheriff, upon his true account so to be
ade by the said *C.D.* shall return unto him the said *C.D.*
ll the overplus of the said sum so deposited by the said *C.*
D. to the said high Sheriff or his lawfull Deputy, as shall
emain in his the said Sheriffs hands after the perfecting of
he said account.

9. *Item*, That he the said *C.D.* shall after the several ge- *To attend*
neral Assizes and Goal-delivery, and Sessions of the Peace, *the execu-*
be present and ready in his own person, safely to carry and *tion of pri-*
conduct the prisoners condemned to the place of Execu- *soners,*
tion, and not to depart thence without licence from the high *Traytors,*
Sheriff, or his Under-sheriff, and shall likewise from time *&c.*
to time so often as he shall be thereto required by the said
Sheriff, under-sheriff, or his Deputies, be ready to ayd and
assist them or any of them, for the apprehending of any
Traytor, Priest, or Felon, or for any other matter or thing
whatsoever, concerning his Majesties service within the
said County. *In witness whereof*, &c.

The Bond for the performance of these Articles is ordi-
narily made as all other bonds are for the performance of
Covenants.

A Bond entered to a Sheriff for anes appearance in the Common Bench.

NOverint universi per præsentes nos *A. de S. in* Com. Ebor.
Gen. C.D. de R. in dict. Com. *Ar. & B. F. de T. in* Com.
prad. Yeoman, teneri & firmiter obligari G. M. Ar. Vic.

Com.

Com. præd. in xxx l. bonæ & legalis monetæ Angliæ: solvend eidem G. M. aut suo cert. in hac parte Attorn. Executor. suis Assignat. suis. Ad quidem solutionem bene & fideliter faciend obligamus nos & quemlibet nostrum per se pro toto & in solid Hæred. Executor. & Administrator. nostros firmiter per præ sentes. Sigillis nostris sigillat. Dat. xx die Junii, ann Regni Dom. nostri Caroli *secundi* Angliæ, &c.

The Condition.

THe Condition of, &c. That if the above bounden A. B. do appear before the Justices of the Common Bench at *Westm.* in the morrow of the holy Trinity, to answer M. N. Gent. in a plea of Debt; That then this present Obligation to be voyd, &c.

In the Kings bench thus.

THe Condition, &c. That if the above bounden A. B. do appear before our Soveraign Lord the King, at *Westm.* on *Saturday* next after the morrow of St. *Martin* to answer to M. N. of a plea of Trespass: That then, &c.

Note that Kings Bench Writs are always returnable upon a day certain; as on *Monday*, or *Tuesday*, or *Thursday*, &c. next after the morrow of St. *Martin*, &c. and are always in trespass, untill of late by Act of Parliament the cause of action is to be specially inserted. But Common Bench Writs are in Debt, Trespass, Account, Trespass upon the Case, &c. as the case requires, and are not returnable on a day certain, but returnable on the morrow of the Holy Trinity, or the morrow of St. *Martin*, &c.

An Indenture of Covenants to a Sheriff to save him harmless for returning a Devastavit *against an Executor.*

THis Indenture made, &c. Between Sir A. B. Kt. High Sheriff of the County of T. and C. D. Gent. Under-sheriff of the said high sheriff of the said County of T. of the one part, and *E. F.* of, &c. of the other part, Witnesseth, That whereas the said E. F. hath obtained and sued out of his Majesties Court of Common Pleas at *Westm.* his Majesties Writ of *Fieri facias* to the said Sheriffe directed, bearing *Teste* the 29 day of *June* now last past, and returnable in the said Court in 8 days of the holy *Trinity* last past, thereby commanding the said high sheriff to levy of the *Goods* and *Chattels* which late were of *P. K.* of, &c. deceased

ceased, at the time of his death in the hands of W. T. Executor of the Testament and last Will of the said P. R. the Testator, a certain debt of 200 *l.* which the said E. F. in the said Court hath recovered against the said *W. T.* the Executor, as by the said Writ now delivered to the said Sheriffe in form of law to be executed, more at large appeareth.

And whereas the said E. F. hath informed the said high Sheriffe, and under-sheriff, that divers goods, chattels, and debts, which were the said P. R. the Testator at the time of his death, to the value of his said debt of 200 *l.* after the death of the said *P. R.* the Testator, came to the hands of the said *W. T* the *Executor* within the said County to be administred; and that the Executor since the death of the said P. R. the Testator, came to the hands of the said W. T. the Executor within the said County to be administred: & that the Executor, since the death of the said P. R. the Testator hath wasted the same, so that unless the said sheriff shall upon the said Writ of *Fieri facias* make his return, to this or the like effect, *viz.* That the said Goods and Chattels which were the said P. R. the Testator at the time of his death to the value of the said 200 *l.* did after the death of the Testator come to the hands of the said Executor within the said County of *T.* to be administred; and that the said Executor hath wasted the same, so that the said sheriff cannot by vertue of the said Writ of *Fieri facias* do execution thereupon of the goods and chattels as is thereby required; And so that also the said E. F. cannot by course of Law have the benefit of his said recovery: whereupon the said High-sheriff and his under-sheriff, being desirous to do what to them or either of them, by vertue of their said Office appertaineth, for the furtherance of Justice in that behalf, giving credit to the said assertion and affirmation of the said E. F. the said High-sheriff at his earnest request hath upon the said Writ of *Fieri facias* in form of Law returned to his Majesties Justices of the said Court of Common Pleas, a *Devastavit* of the Goods and Chattels, which were the said Testators at the time of his death, and came to the hands of the said Executor to be administred to the said value of the said debt of 200 *l.* Now therefore these presents do witness, that the said E. F. and T. P. for the indemnity and saving harmless of the said High-sheriff, and Under-

The returning the Devastavit.

der-sheriff, and of their and either of their Clerks, of, for and concerning the making of the said return, in case the assertion and information of the said E F. be not true, do by these presents, Covenant and grant joyntly and severally for themselves and every of them, and for their and every of their Executors and Administrators, to and with the said A. B. and C. D. and either of them, their and either of their Executors and Administrators, that they the said E F, and T P, or some of them, shall and will at all times hereafter, discharge, acquit, and save harmless the said A B. and C D. and either of them, their, and either of their Clerk or Clerks, and the *Heirs, Executors*, and *Administrators* of them and every of them, for and concerning all, and all manner of actions, suits, complaints, losses, vexations and troubles whatsoever, which shall at any time hereafter be commenced, attempted, brought, or prosecuted against them, or any of them by the said P. R. the Executor, his *Executors* or *Administrators*, or by any other person or persons, touching or concerning the said return, or by reason or occasion thereof: And shall and will from time to time beare and pay to them the said Sir A B. and C. D. all such sum and sums of mony, damages, costs, and expences, as against them, or either of them, or against their, or either of their *Executors*, or *Administrators* shall be adjudged, decreed or ordered, or which they or any of them shall from time to time by reason or occasion aforesaid, be put unto, or shall necessarily lay out, or be enforced to pay by reason of any such action, suit, complaint, molestation, vexation or trouble: and for the true performance of all and singular which said premises, the said E. R. and T. P. doe by these presents bind themselves joyntly and severally, and their and either of their *Heires, Executors* and *Administrators*, to the said Sir A, B. and C. D. in the summe of 300 *l.* of good, *&c.* to be paid to them or either of them, their, or either of their *Executors*, or *Administrators*, if default or breach of the Covenant aforesaid shall be made. *In witness, &c.*

They binde themselves in the penalty of 300 *l. for the performance of*

A discharge to the Sheriffe (for a Prisoner) from him to whom the prisoner is indebted.

KNow all men by these presents, that I *A B.* of *C.* in the County of *York* have remised, released, acquitted and discharged, and by these presents doe for me, my *Heires, Executors, Administrators,* and *Assigns,* remise, release, and fully and absolutely acquit and discharge E. F. high-Sheriff of the said County of *Y* and *G. H.* his Under-Sheriff, their Heirs, Executors, and Administrators, of and from all, and all manner of Escapes, as well voluntary as negligent, and of and from all actions, cause and causes of actions, for or concerning the enlarging, or setting at liberty of the body of L.M. taken at my suite by vertue of a *Capias ad satisfac.* to the said Sheriffe directed, of ten pounds debt, and fourty shillings costs of suit, returnable in the Court of Common Pleas in *Easter* Terme last past; and I the said *A. B.* do hereby discharge the said Sheriff from all actions, reckonings, duties and demands whatsoever, concerning the executing of the said *Capias ad satisfac.* In *witness* whereof, &c.

Or thus.

KNow all men by these presents, that I A. B of, *&c.* have remised, released, and quit claimed, and by these presents do remise, release, and quit claim unto C. D. Esq; now Sheriff of the said County of *Y.* all and all manner of actions, suits, troubles and incumberances whatsoever, which I might, may, or ought to have against him for or concerning the discharging, or setting at liberty *L. M* of *N.* in the said County, *Gent.* being arrested and imprisoned upon a *Capias ad satisfaciendum* out of the Court of

Common Pleas at *Westminster* for an hundred pounds debt, and twenty shillings costs, at my suit, returnable from the day of *Easter* in one month last past. In witness whereof I have hereunto set, &c.

A Condition that the sheriff executing a Writ, may detain out of the goods and lands extended so much money, &c.

THE CONDITION, &c. That whereas the within bound *A.B.* the day of the date hereof [illegible] delivered to the hands of the within named C. D. and E.F. the Writ of execution, for levying and extending the goods, chattels, and moyety of the lands, tenements, and hereditaments of one G.H. of, &c. &c. and for the use of the said A.B. whereby the same A.B. may be satisfied of the sum of two hundred pounds mentioned in the said Writ, if in case the said C. D. and E.F. or either of them, do lawfully execute, or cause to be lawfully executed, the said Writ, according to the nature, meaning, and purport thereof, by the impannelling of twelve lawful and indifferent men to be sworn of the contents of the said Writ; if then the said A.B. his Executors and Administrators, do quietly permit and suffer the said Sheriff or under Sheriff to have, take, receive and detain, to his and their own proper use and behoofe, out of such moneys, goods, or chattels, as shall be had, levyed, or received by vertue of the said Writ, or the execution thereof, so much in lawfull money of *England*, or other benefit, as they or the said Sheriff or under Sheriff, or one of them, shall think reasonable or sufficient, for their satisfaction of and for such travel, pains or charges, as they shall bear in and about the execution of the said Writ, and extent thereupon to be had or made; otherwise within, &c. next after the said writ shall be executed, and return made thereof accordingly, do

pay, or cause to be paid unto the said Sheriff, or unto Sheriff, or their Deputy or Deputies, so much lawfull ney of *England*, as they shall for the causes aforesaid reasonably demand, That then, &c.

A Bargain and sale of goods made by the sheriff, by vertue of his office.

TO all faithfull people, to whom this present writing shall come, Sir H B. Knight, Sheriff of the County of greeting. Whereas by vertue of His Majesties Writ of *fieri facias* to me directed, out of His Majesties Court of Common Pleas at *Westminster*, for the levying of an hundred pounds debt, and forty shillings damages, which Sir H. Knight, Lord Chiefe Justice of the said Court of Common Pleas, hath recovered in the said Court against E. F. Administrator of the goods and chattels which were of I. R. late of R. in the said County, Gentleman, deceased, at the time of his death to be levied upon the Goods and Chattels which late were the said R.'s at the time of his death in the hands of the said E. F. to be administred, if so much of them do remain in the hands of the said *E.* F. to be administred; and if not, then the damages to be levied of the proper goods of the said E. F. as by the said Writ returnable *from the day of the Holy Trinity in three weeks*, more at large appeareth: I have taken into my hands all and singular the goods and chattels mentioned in an Inventory hereunto annexed, being the goods and chattels which late were the said I. R.'s. at the time of his death, and found in the hands of the said E. F. unadministred.

Now know yee, that I the said High Sheriff, by vertue of the said Writ, and of my Office, and for and in consideration of the sum of two hundred pounds of good, &c. to me the

the said high Sheriff in hand payd, do hereby, as much in me lyeth, by vertue of my said Office, fully and absolutely bargain, sell, and deliver to the said E.F. his Executors, *Administrators*, and assigns, all and singular the said Goods and Chattels, *To Have and to Hold*, and enjoy the same unto the said E.F. his executors and administrators for ever. In witnesse whereof I have hereunto set my seal of Office the tenth day of *May*, in the yeare of our LORD 1658.

THE JUDICIAL AND MINISTERIAL OFFICE OF CORONERS.

THIS Office of Coroner hath its Etymology or Derivation *à Corona*, being an Officer of the CROWN from antiquity, and hath principal cognisance of some PLEAS called *Placita Coronæ*.

He was established by pristine Kings, *ALFRED*, &c. to be *Principalis conservator pacis*, according to the *Mirrour of Justice*, which saith, *Auxi ordains fuer Coronours en Chescun County, & Viscounts à garder le peace, quant les Countees soy demesterent del gard, & Bayliffes in lieu de centeners* (that is) Coroners in every County, and Sheriffs were ordained and constituted to be Conservators of the Peace, when the Earles dismist themselves of the custody of the Counties, and Bailiffs in place of Hundredors: but of his antiquity and jurisdiction. *Vide* 2d *Institut. Magna Charta, Cap.* 17. *Merton. cap.* 3. *Redisseisin*, and *Westminster* 1. *cap.* 10. and 26. and *Artic. super Chart. Cap.* 3.

Co. upon Mag. Char. cap. 17. 4 *Inst. c.* 5 *fol.* 271.

This office of Coroner is duplicate { General & Special.

1. *General.*

TO the office of general Coroners appertains the receiving of the Appeals of the whole County, of Felons committed within the year; to award the Exigents of contempts, and to pronounce the Judgments of Out-lawries upon *Mirrour c. 1. Sect. 13.* County daies (of which see more in the County Court) and likewise in what pledge or Decenary they were, or of what mainprised, and in whose ward.

2. *Special.*

SPecial Coroners, are Coroners of Liberties, and of privileged places, as Coroner of the Verge, *viz.* Coroner of the Kings Housholld, *&c.* to demonstrate the distinction of the Authority and Jurisdiction of general and special Coroners by *Wrote* and *Wiggs* Case, in the fourth Reports, fol. 45. and 46. Where it was resolved, that at Common Law *Artic. super Chart. cap. 3.* the Coroner of the KINGS House had an exempt jurisdiction within the Verge, and the Coroner of the County cannot intermeddle therein, as appears by the preamble of the Statute of *Articuli super Chartas*; Because that before this time many Felonies done within the Verge have been unpunished (and the reason and cause thereof was) because the Coroners of the County are not suffered to interpose and enquire of Felonies within the Verge, but the Coroner of *Vid. 3 H. 8. c. 12.* the KINGS hostel, which is passant. By which it appears, that the Coroner of the County could not intermeddle with the death of a man within the Verge but the Coroner of the Hostel onely. And so was it adjudged, *Pasch. 2 Eliz.* in the Kings Bench, where *Swift* was indicted before the Coroner of the County of *Middlesex*, of a Murther done at *Tuthil* in the said County of *Middlesex*, which indictment was removed into the Kings Bench, and there *Swift* *Finch. lex. lib. 3. cap. 24.* pleaded that *Tuthil* was at the time of the murther, and yet is within the Verge, &c. upon which the Atturny dis-

in Law, and it depended in advisement three Terms, at length the plea was adjudged good, and thereupon he discharged of the Indictment; for as the Coroner of the shold cannot intermeddle within the County out of the ge, because his Office extended not to it: so the oner of the County cannot intermeddle within the ge; and it shall be contrary to reason, that their Offices jurisdictions being several and distinct, the one should rmeddle within the jurisdiction of the other. But it was lved, that the Justices of the Kings Bench, Justices of r and *Terminer*, Goal-delivery, and Justices of peace, y enquire of, hear and determine all murthers and felo- s within the Verge, because their authority and jurisdicti- are general through the whole County, and alwaies hath n so used, and so was it adjudged without any scruple in *lcrofts* case.

What person ought to be Coroner, and how qualified.

OF ancient time this Office was of such estimation, that none could have it but a Knight, if we look back the Statute of *Westm.* 1. *cap.* 10. and the current of the rit in the Register *fol.* 177. *b.* is *nisi sit miles, &c.* and ch a one *qui melius sciat, & possit officio illi intendere*: this was the pollicy of prudent antiquity, that Officers d ever give a grace to the place, and not the place (onely) grace the Officer: Therefore it was holden a principal use to remove and discharge a Coroner if he were not a night, and had not a hundred shillings rent of Freehold. Yet *F N B. de Coronatore eligendo*, it is not allowed a valid d sufficient cause to remove him, (though he be not a night) at this day, alledging; That those words were in- rted into the Statute, to the intent that a Coroner should ve sufficient within the County to be responsible for all that e doth or ought to doe by his said Office. Mr. *Wilkinson* n his office of a Coroner also saith, that this Statute requi-

See Brit. *cap.* 3. *fo.* 3. Stamf. *pl. coron.* 48. *c.* *Register* 177.

reth ſuch a Coroner as can, will, and may attend to exec
the ſaid office: And therefore (ſaith he) if ſuch a Coro
be elected, as cannot, will not, or may not attend the exe
tion of the ſaid office, he is to be removed and diſcharged
Writ from the ſame Office; and the cauſe of his not at
dance, debility, or inſufficiency muſt be rehearſed in the wr
and if he be diſcharged of his office by a falſe ſuggeſtion,
may by a petition in Chancery pray a Commiſſion to enqu
of this falſe ſuggeſtion, and if it be found and returned i
the Chancery, then his Majeſty may grant a *Superſedeas*
the Sheriff of the County, that he remove not the ſaid Co
ner from his office; and if he be removed before the *Sup*
ſedeas come, then that he permit the Coroner removed to e
ecute his office as he did before his removal.

F N B. de Coronatore elegendo & de electione vicidariorii.

He muſt have two properties, *viz.* ſufficient knowled
ability, and diligence in executing his office. Sir *Edw*
Coke in his ſecond part of his *Inſtitutes, Weſtm.* 1. *cap.* 1
ſaith, he ſhould have five properties, *viz.*

Co. Int. 2. *fo'.* 174. *& 175.*

1. He ſhould be *Probus homo.*
2. *Legalis homo.*
3. Of ſufficient underſtanding and knowledg.
4. Of good ability, and power to execute his office acco
ding to his knowledg.
5. Diligent in execution of his office.

And the Common Law doth not only require expert me
to be Coroners; but men of ſufficient ability and livelihoo
for three purpoſes, *viz.*

1. The Law preſumes that they will do their duty, an
not offend the Law, for fear of puniſhment, whereun
their Lands and goods be ſubject.
2. That they might execute their office without bri
bery.
3. That they be able to anſwer to the King all ſuch fine
and duties as appertain to him, and to diſcharge th
Country thereof, wherewith the County being their
Electors were chargeable. For the Coroners being
elected by the Country, if they be inſufficient, and
not able to anſwer ſuch fines and other duties in re
ſpect

ſpect of their office, as they ought, the County as their ſuperiour ſhall anſwer the ſame. As for example, the County of *Kent* made election by force of the Kings writ of *William Herlizon* to be one of the Coroners for the ſame County, who after was amerced for a falſe return forty ſhillings; Whereupon proceſs went out to the Sheriff to levy it, the Sheriff upon his oath ſaid that the ſaid *William Herlizon, non habet terras vel tenementa, bona ſeu catalla in balliva ſua, nec habuit, unde dict. denarii levari poſſint*: Now ſaith the Record, *Et quia ipſe Coronator electus fuit per Comitatum, &c. ita quod in defectu ejuſdem Coronatoris totus Comitatus ut elector & ſuperior, &c. tenetur regi reſpondere, præceptum fuit nunc vicecomiti, quod de terris & tenementis hominum totius Comitatus in balliva ſua fieri fac. prædict.* 40 *s.* And the like law was of the Sheriff, and other the ſaid Officers, when they were elegible.

In Scaccar. inter præcept. term. Hil. 14. E. 3. ex parte remem. regis 20 H. 2.

They remain Conſervators of the peace, within the Coun- where they are Coroners, notwithſtanding the King's eath, for being elected by the Freeholders of the County by rit, and returned of Record in the Chancery, which is a icial act, remaineth, and ſo of the *Verderor*: It is other- ie of Judges and Juſtices that hold their place by Writ, ommiſſion, Letters patents, or otherwiſe at will, whoſe thority is determined by the death of the King, for by the ommiſſion, &c. he maketh them *Juſticiarios ſuos*, ſo at he being once dead, they are no more his Juſtices. nd it might be a reaſon wherefore the Sheriff of ancient me was eligible, for that he had *cuſtodiam Comitatus*, and rincipal Conſervator of the Peace; and therefore his autho- ty ſhould not ceaſe by the death of the King, no more than at of the Coroner.

Dyer. Eliz. fol. 165.

Daltons *Juſtice of Peace*

Of the number of Coroners in each County.

THe number of Coroners are not ſet down by the Law: In ſome Counties there are four, in ſome Counties ſix,

Finch *fo.* 115. In some fewer, and in some but one, 23 *Ass. P.* 7. 14 H. 4. 39 H. 6. 40. *F N B.* 163. *Inst.* 2. *Westm.* 1. *cap.* 10. in twelve Shires in *Wales*, and in *Cheshire* there are but [illegible] *Vid. Lamb. Inst.* 16. *b. Stamf.* 48.

Of the Power and Jurisdiction of Coroners.

THe Coroners power is duplicate, *viz.*

1. Judicial.
2. Ministerial.

Co. 2. *Inst. Mag. Char. c.* 17. 1. The Judicial authority both of a general and spec[ial] Coroner is in case where a man comes to a violent death, [or] felony or mischance, and to take the acknowledgment of [a] lony, to take the enquest of felonies happening within his L[i]berty, to give abjurations, and pronounce Judgment up[on] out-lawries, appeals of death by bill, &c. solely to take Indictment *super visum corporis*, and to take and enter an a[p]peal; but he can proceed no further, upon the Indictme[nt] or appeal, but to deliver them over to the Justices, and enquire of Treasure trove, and wreck of the Sea, &c. B[ut] if you will enquire more amply what anciently appertain[s] unto him, read *Fraction lib.* 3. *tract.* 4. *cap.* 5. *de officio Co[r]onatorum circa homicidium*: *& cap.* 26. *de officio Cor[o]natoris in Thesauris inventis & cap.* 6. *de officio Coronat[o]rum in raptu Virginum*: *& cap.* 8. *de officio Coronat[o]r. pace & plagis.* And *Britton* in his first Chapter where h[e] treats of it at large: and *Fleta* E. 1. *cap.* 18. But mo[re] amply in *Stamfords pleas of the Crown, lib.* 1. *cap.* 51.

It is amply expressed in *F N B. fol.* 186. that the Coro[n]er shall carry the Records of his own view, abjurations, out-lawries, appeals, accusations of Thefts done before him, and of all other things done in the County, that is certain to th[e] Co[r]

Coroners office: and also in the Court of Freemen which have Franchises of infangthest, &c. And in the presence of the Coroner shall all appeals of Robbery and Larceny be framed.

Now, as to the view of the body of a man, it is his office, that so soon as he shall be certified thereof, to send to the Constable of the Hundred of the place to summon sufficient and able men of the towns adjacent, that at a day certain they be before him at such a place; all which done the body is to be viewed, and if it be buried, it is to be taken up, and he is to record the names of those who buried him: and if it hath been decreased or endamaged by ill keeping, or lain so long that it cannot be judged how it came by its death, the same must also be recorded, that this negligence may be punished at the coming of the Justices of Assize into the Circuit, for the Town where the amerciament was shall be grievously amercied, upon the sight of the Coroners rolls. 2 R. 3. 2. 4. H. 7. 18.

He ought to do his office in person, and to see the dead body when he maketh inquisition, otherwise the inquiry is invalid: for if he will inquire of any dead person without view, this is without authority and void.

If the Coroner be remiss and negligent in coming to execute his office, after he is sent unto he shall be amerced.

But to proceed, if the Coroner with the advice of the people present, be able to judge of the death, then are they to present the manner of his killing, whether he died of anothers felony or of his own, or by mischance; and if of blows, whether of a staff or a stone, or any other weapon; and he is to record in his rolls the names of those who were summoned and appeared not, that the same offences of disobedience remain not unpunished, whereby the Coroner could not at that time proceed for want of Jurors. Therefore we will inquire what persons may be of the Enquest. *Mirror c. 1. sect. 13.*

What persons are to be of the Coroners Inquest, and how to be qualified.

Croke 1. part. f. 95. Sir Will. Withipoles case.

THE Inquisition before Coroners is to be of persons within the four next adjacent Villages, to be made by the Bailiff

or Conſtables of thoſe Villages, as appeareth by the Stat. 4. *E.* 1. *de officio Coronatoris, & Crompton fol.* 113. In theſe Enqueſts lie no exceptions or challenges to the perſons of the Jurors; but he ought to make his pannels of the diſcreteſt, of the ableſt, and beſt of them.

In caſe of death an Inquiſition ſuper viſ. corp. per ſacr. prob. & leg. hom. where not good. Poph. rep. fo. 202. Harriſon againſt Errington. Poph. rep. f. 205, 210.

The names of the Jurors ought to be certified, for peradventure they be not *probi & legales homines*, but Villains and Outlaws. 15 *H.* 4. 41. for note, that an Indictment before Coroners was found, that the Earl of B. was *felo de ſe*, was quaſhed, becauſe it did not appear that it was *per ſacramentum proborum & legalium hominum*, *Pophams rep. fol.* 202. *Harriſon* againſt *Errington.*

And likewiſe in *Hillary term*, 2 *Car. B. R. Pophams rep. fol.* 209. *&* 210. a great multitude of Welchmen were indicted for the death of a man by an Inquiſition taken before the Coroner in the County of *Montgomery* in *Wales*, and exceptions were taken to the Inquiſition: as firſt that the Coroner cannot take any Inquiſition, unleſs it be *ſuper viſum corporis*, and to this was cited, *Britton* 6. *R.* 2. *Coron.* 107. 21 *E.* 4. 70. 2 *R.* 3. 2. This is alſo the reaſon, that if a man drown himſelf, and cannot be found, the Coroner cannot inquire of the death of this man: but for the King to have a forfeiture of his goods, an Inquiſition ought to be taken before the Juſtices of the Peace. The ſecond exception was, that the Inquiſition was, *per ſacramentum proborum & legalium hominum Com. prædict.* whereas by the Statute of 4 *E.* 1. this enqueſt ought to be by men of the four next Towns adjoyning, and this ought to appear in the Indictment alſo. *Hill.* 10. *Jac. Rot.* 3. *Co. lib. Intr.* 154. and in *Paſc.* 3. *Car.* This indictment was quaſhed for theſe exceptions.

Stat 4 *E.* 1.

Co lib. Int. fol. 354.

The empannelling of the enqueſt, and the view of the body, and the giving of the verdict, is commonly in the Street in an open place, and *in corona populi*; but this name rather cometh becauſe the death of every Subject by violence is accounted to touch the crown of the Prince, and to be a detriment unto it. The Prince accounting that his ſtrength, power, and crown doth conſiſt in the force of his people, and the maintenance of them in ſecurity and tranquillity.

Smiths *Commonwealth of England, c.* 24.

The

The method of keeping the Coroners Court.

Stamf. 52.

THe Coroners Court is a Court of Record, and holden after this manner.

When a Coroner cometh to view a party that hath hanged, killed, or drowned himſelf, or that hath come to his death by any other accident, he muſt make out his Warrant to impanel a Jury, to the Bailiff in whoſe Liberty the party lieth dead, to appear before him at ſuch a day, and place, as he ſhall determinate and appoint. The form of the Warrant is thus:

To the Bayliff, and alſo to the Conſtable and Tithing-men of the Hundred of R. *in this behalf jointly and ſeverally greeting.*

York-ſhire

BY vertue of mine office, theſe are in the name of our Soveraign Lord the King, to will and require you, immediately upon the receipt and ſight hereof, to ſummon and warn twenty four able and ſufficient men to be and appear before me at *Skipton* the 21. day of *November* next enſuing the date hereof, at the common *Tolbooth* of the ſaid Town, then and there to do, execute ſuch things as on his Majeſties behalf ſhall be given them in charge; whereof fail you not, as you, and every of you will anſwer the contrary at your perils. Dated under my hand and ſeal, the 12. day of *Septemb.* in the year of our Lord. 1158.

By me *W. G.* one of the Coroners of the County aforeſaid.

If it be in a City or Corporation, then the form of the Warrant or precept is thus:

The

City of York. } *To the Sheriff of the City of* York, *and to t Serjeants at Mace, attending the ſaid Sh riffs.*

THeſe are to will and require you, and in the name of o Soveraign Lord the King, &c. ſtraitly to charge and com mand you, that you cauſe to come before me one of the Cor ners of the City of *York*, and County of the ſame City, the houſe of *T. P* in *Foſgate* within the ſaid City, betwe the hours of One and Two of the Clock in the Afternoon this preſent firſt day of *May*, twenty four good and law men of the ſaid City, then and there to enquire upon the vi of the body of *A. B.* there lying dead, how, and in wh manner he came to his death, fail not herein at your per as you will anſwer the contrary: given under my hand a ſeal, the &c. 1658.

By me *I. C.* &c.

When you come to the place appointed call the Bail Conſtable, &c. to make a return of their Warrant.

Then command one to make three Proclamations, calli the Jury after this manner.

You good men that are returned to appear here this pr ſent time to enquire for our Sovereign Lord the King, & anſwer to your names as you ſhall be called, every man at firſt call, upon pain and peril that ſhall fall thereon.

And ſuch of the Jury as fail to appear ſhall be fined fo ſhilling.

The Jury appearing ſwear fourteen or fifteen of them, a give the foreman his oath *ſuper viſum corporis*, thus:

The oath of the foreman of the Jury.

You ſhall diligently enquire and true preſentment ma on the behalf of our Soveraign Lord the King, &c. ho and in what manner *A. B.* here lying dead, came to h death, and you ſhall deliver up to me (his Majeſties Cor ner) a true Verdict thereof according to ſuch evidence ſhall be given up to you, according to your knowledg: ſo he you God, &c.

Or thus;

You ſhall diligently enquire, and true preſentment make of ſuch things as ſhall be given you in charge, according to your evidence: ſo help you God, *&c.*

Then ſwear the reſt by four at once, thus:

The oath of the reſt of the Jury.

All ſuch oath as *L. M.* the fore-man of this Inqueſt for his part hath taken, you and every one of you ſhall well and truly obſerve and keep on your parts, according to your evidence: ſo help you God, &c.

If the evidence be not ready, you may adjourn until another day and place, to receive their evidence, binding the Jury by recognizance in twenty pounds apiece for their appearance.

Then ſend out your warrant to the witneſſes, commanding them to come to be examined before you, and to deliver their knowledg touching the matter in queſtion, taking their examinations in writing under their hands.

If it be about the trial of a mans life, then muſt the witneſſes be all bound over in twenty pounds apiece at the leaſt, perſonally to appear at the next aſſizes then enſuing, to deliver their knowledg therein.

The Recognizance muſt be made in this manner, *viz.*

York ſs.

The two and twentieth day of *May* in the year, &c. *A. B.* of *C.* in the aforeſaid County, acknowledges himſelf to owe, and to be indebted &c. under condition, &c.

That if the ſaid *A. B.* do perſonally appear before the Juſtices of Aſſize, and Goal-delivery, at the next Aſſizes to be holden at the Caſtle of *Y.* for the ſaid County, and then and there deliver and ſet forth his knowledg touching the death of *E. F.* and do not depart thence without licence of the ſaid Court. That then this preſent Recognizance to be void and of none effect, or elſe the ſame to ſtand, remain, and continue in force, ſtrength, power and vertue.

Taken and acknowledged the two and twentieth day of *May* in the year 1658. aforeſaid, before me *R. W.* Gent. one of the Coroners of the County afore aid.

R. W.

Then command three Proclamations to be made, thus:

If

If any man can give evidence on the behalf of his Majesty, how and in what manner *A. B.* here lying dead, came to his death, draw near, and you shall be heard.

Evidence appearing, give him or them this oath:

The oath of the evidence.

All such evidence as you shall give to this Enquest, concerning the death of *A. B.* here lying dead, shall be the truth, the whole truth, and nothing but the truth: so help you God, &c.

The Jury being all sworn, command them to stand together and hear their charge, the which I shall give you in brief.

Gentlemen,

Coroners charge to the Jury.

1. You that are sworn, you shall by your Oaths declare of the death of this man, whether he died of felony, or by mischance; and if of felony, whether of his own or of anothers, and if by mischance, whether by the act of God, or of man; and if of famine, whether of poverty or common pestilence; and from whence he came, and who he was; and if he died of anothers felony, who were principals, and who accessaries, and if Hue and Cry were duly made or not; and whether the men fled according to Law or not, and who threatned him of his life or members, and who were sureties for the Peace; or whether he dyed of long imprisonment, or of pain, and by whom he was further from life and nearer to his death; and so of all prevailing circumstances that can come by presumptions.

2. And in case where he died by hurt, or fall, or other chance by the act of God, so that he had no power to speak before his death; then you shall enquire the names of the finders, and of his next neighbours, and who were his Parents, and if he were killed there, or elsewhere; and if elsewhere by whom, and how he was thence brought, and the value and kinde of the Deodand, and to whose hands it came; for in case a man dieth by a fall, in such case according to *Glanvile*, it is ordained, whatsoever is cause of his death is *Deodand*; as it is for whatsoever moveth in the thing whereof he fell, as Horse, Cart, Milstone; also Vessels are sometimes *Deodands*, but not in the Sea; according to the Maxime, *Omnia quæ movent ad mortem sunt Deodanda*, but the sums upon the

What are Deodands, and what are not.

Horses

Horſes, the goods lying in Ships, Mills, Carts, and Houſes are not accounted for *Deodands*.

3. And in caſe of anothers felony, then you are to enquire, who were the felons, in what Hundred, Pledge, Doſein, Ward, or Mainprize they were, and from whence they came, and where they returned.

4. And if he was killed by falſe judgment, then you are to enquire who were the Judges, who the Officers to form the Judgment, and who acceſſaries; and if of falſe witneſſes, who they were, and the Jurors.

5. And if he died of his own felony, then that you inquire the manner, and the value of his goods, and the name of his parents, and the finders, and of the neighbours, and the value of the waſte.

Note that you are alſo to enquire of the Acceſſaries, and they are nine in number, *viz.*

1. Thoſe who command.
2. Thoſe who conceal.
3. Thoſe who allow and conſent.
4. Thoſe who ſee it.
5. Thoſe who help.
6. Thoſe who are Partners in the gain.
7. Thoſe who knew thereof, and did not interrupt or hinder it by forbidding.
8. Thoſe who knowingly receive ſuch Offenders.
9. Thoſe who are in the force.

All which you are to enqnire of. Alſo you muſt know, that if one man wilfully kill another, or if a man kill or drown himſelf, the firſt doth forfeit by that fact both his lands and his goods, and the other forfeits but Goods and Chattels, and no lands. And if any homicide happen to be wilful murther, which offence cannot be too ſeverely puniſhed, and therefore by the Law, the offender herein ought to loſe both life, lands, and goods. And if it be found Manſlaughter, if the offender can read, then he may, in favour of his life, by the Kings mercy, have the benefit of his Clergy, and ſo ſave his life, but he ſhall forfeit both his Lands and Goods. The Goods muſt be found appriſed and valued, of ſuch offenders, and left in the Town or Village where ſuch offender dwelleth, by them ſafely to be kept, until the Offender be acquit-

ted

ted or convicted by due course of Law; the *interim*, the offender must be maintained with his goods, so as he may be kept alive to answer his fact, and what shall remain when he is convicted, those to whom such goods do belong by the Law must have them, and not before, and thereof discharge the Town or Village which had the custody of such goods. And as for the Offenders Free land, if he have any, immediately after Conviction His Majesty must have *annum, diem, & vastum* therein, and after, the Lord of whom it is holden, shall have it as an Escheat.

Thus having in brief declared these things incident to my office, and to you to enquire of, I will conclude, therefore stand together, and hear your Evidence.

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2. *His Ministerial Power.*

14 H. 7 31
4 H. 7. 3.
Pl. Com.

WE now come to his Ministerial power, wherein he hath authority as a Sheriff, &c. that is, when there is just exception taken to the Sheriffe, judicial process shall be awarded to the Coroners for the Execution of the Kings Writs, in which cases he is *locum tenens vice comitis*, and in some special cases the Kings original Writ shall be immediately directed unto him

When the Sheriffe is Plaintiffe in an action of waste the Estrepment shall go to the Coroners. He may take posse Comitatus.

Estrepment judicial was awarded out of the Court to the Coroners of the County of *Westmerland*, in the action of Waste, brought by the Earl of *Cumberland* against the Countess *Dowager*, because the Earl was Sheriff of the same Shire, by which Writ the Coroners were commanded to suffer no waste to be done in the Lands, &c. And it was then said, that the Coroner may provide against wasts, by taking *posse Comitatus*, *Hobert. fol.* 85. *Cumberlands* case.

Of the Coroners Fees.

THE Statute of 1 *H.* 8. *cap.* 7. prohibiteth a Coroner for taking any thing for doing his Office, upon pain for every default forty shillings, the like penalty where he giveth not his

attendance when he is required to make inquisition upon death of any dead Corpes, &c.

Fitz. tit. Coron. fo. 221. *&* 371. A Coroner hath a fee appertains to his office, *viz.* of every *Visne* one penny, when they appear before the Justices of Assize, which fee receives not to do his Office, but as a right due to him, though execute no part of his office. *Fitz. tit. Coron. fol.* 221. *&* 371.

By the 3 *H.* 7. He is to have (upon an Indictment found murther) thirteen shillings four pence of the goods of the murtherer, and if he hath nothing, then of the amerciament of the Township for the escape, &c. *Mirror. cap.* 1. *Office Coron. Fleta lib.* 1. *cap.* 18. Stamfords *Pleas of the Crown, fol.* 48. 49. *&* 50. 5. *H.* 7.

Of appeals.

APPEALE hath its Origen or Etimology of the French word *Appeller*, signifying to accuse or appeach, it is an accusation, or of *Appeller*, to call, because *appellans vocat reum in judicium*, he calleth the Defendant into judgment, *Co. super Litt. lib.* 2. *c.* 11. *sect.* 189. *& lib.* 3. *cap.* 8. *sect.* 500.

Appeals are triplicate, *viz.*

1 Of wrong to his Ancestor, whose heir male he is, and that is only of death.

2. Of wrong to the Husband, and is by the Wife only of the death of her Husband, to be prosecuted whilest she is a Widow, for if a woman who hath title of an Appeal of the death of her Husband takes another Husband; he and the Wife shall not have an Appeale; for the woman ought to have it sole: for the cause of an Appeal is, that she is indigent of her husband; and the reason is, because the wife wanting a Husband, is not so well able to live: and therefore when she hath another Husband the Appeal is determined: for *cessante causa cessat effectus*, the cause ceasing, the effect ceaseth. (*Br. Appeal* 109.) as where a woman hath a *Quarentine* and she marries within the forty daies, she loses her *Quarentin*, 1 *Mar.* 1. *Br. Appeal* 109. *Dower* 101.

3. Of

3. Of wrongs done to the Appellants themſelves, as robbery, rape, and mayhem.

There ſhall none of the blood make Appeal, but the next Heir of the blood, that ſhould have the Heritage by Law after the Death of him that was ſlain.

If a man be ſlain having a wife, his wife ſhall be admitted to make appeal within a year and a day, if ſhe begin the Appeal but two daies before the year be paſt, it is as good as if it had been at the beginning of the year.

If the wife begin not her Appeal, within a year and a day after the death of her Husband, ſhe ſhall never afterwards be received to make an Appeal.

The Heir of a man killed ſhall have Appeal as well of homicide of his Anceſtor, as of murther, 2 *E.* 6. *Br. appeal* 122.

If he that is attainted of Treaſon or felony be ſlain by one that hath no authority, in this caſe his eldeſt ſon can have no Appeal; for he muſt bring his Appeal as heir; which being *ex proviſione hominis*, he looſeth it by the attainder of his Father, but his wife ſhall have an Appeal, becauſe ſhe is to have her Appeal as wife, which ſhe remaineth, notwithſtanding the attainder, becauſe *Maris & feminæ conjunctio eſt de jure naturæ*, and therefore is indiſſoluble.

An Appeal of Mayhme is in manner but a Treſpaſs, for he ſhall recover but dammages, yet the Indictment ſhall ſay, *quod felonice mahemavit.*

The Coroner receiveth at the County appeals of robbery and Appeals of death, whether it be for the wife of him that is dead, or for his heir, which appeal may be made at any County within a year and a day after the fact committed. That is, within a year and a day after the ſtroke, and not the death, *Stamf. Co.* 4. *Report. Caſes of Appeals and Indict.*

If a man make Appeal at the County, it behooves him to be at the County in proper perſon to make his Appeal, and he muſt find ſuretys at the ſame County to purſue his Appeal, and he ſhall have a day to the next County to purſue his Appeal, and if the Plaintiff fail at the County of his appearance in proper perſon, the Appeal is abated.

If a man make an Appeal, and be non-ſuit in his Appeal, he ſhall never be received to make his Appeal afterwards.

Note,

Note, That an Appeal of Death may be commenced before the Coroner, and Proceſs awarded to the Exigent; but the Plea ſhall not be determined before him. *Br. Appeal* 62. and *Corone* 82. *Note.*

Weſtminſter 1. *Cap.* 10. The Sheriff ſhall have Counter Rolls with the Coroners, as well of their Appeals, as of Inqueſts of Attachments, and of other things which to that Office appertains. *The Sheriff ſhall have Counter-Rolls of Appeals, &c.*

An Appeal of Murder by the Wife of him that was ſlain.

A. B. *nuper uxor.* C. B. *in propria perſona ſua inſtanter appellat* F. F. *nuper de* S. *in Com.* Ebor. *gen. in cuſtod.* H. R. *Vic. Com. præd. & ad Barram duct. in propria perſona ſua de morte præd.* C. B. *nuper viri ſui de quod ubi idem* C. B. *nuper vir ejus* 10. *die Maii, anno, &c. fuit in pace Dei & dict. Dom. Regis operans & laborans in lapidibus calcariis, anglice* Limeſtones, *effodiend. in terris* T. W. *Armig. in quodam loco ibidem voc.* A ſtone-Delph *vel* pit, *apud* S. *in Com. prædicto, ubi ven. prædictus* E. F. *ut felo dict. Dom. Regis, & de inſultu & malitiis præcogitata in eund.* C. B. *dicto* 10. *die* Maii, *Anno &c. ſupradict. circa horam ſeptimam ante merid. ejuſdem diei, vi & armis, viz. baculis, Cultellis, gladiis, & c. ad* S. *prædictam, in præd. loco felonice inſult. fec. & eund.* C. B. *adtunc & ibidem felonice & voluntarie interfecit & murdravit, & eundem* C. B. *ſic interfect. ubi inde inconſtanter aſportavit in quendam angulum ejuſdem le* ſtone Delph *vel* pit, *& eum lapidibus Ca'cariis adtunc et ibid. jacend. in dicto le* Delph *vel* pit *abſcondidit in Paroch. de* S. *in Com. præd. contra pacem dict. Domini Regis Coron. & dignitates ſuas: Et quam cito idem felo, feloniam & murdrum prædict. feciſſet fugit, & prædict.* A. B. *ipſum recenter inſecut. fuit de vill. in Villam uſque quatuor vill. propinquiores & ulterius quouſque, &c. Et ſi præd.* E. F. *Feloniam & murdrum prædict. in forma prædict. fuit*

dedicere velit, tunc prædict. A. B. *parat. est felon. & murdr. præd. versus eum probare prout Cur. hic, &c. Et inven. pleg. de prosequend. Appell. illud,* viz. I. D. & R. R. &c.

If the appeal be by the heir of the person murthered, then thus.

A B. *proxim. de sanguine & filius & hæres* C. D. *propria persona sua instanter appellat.* E. F. *nuper* S. *in Com. Ebor. Gen. &* G. H. *nuper de* R. *in Com. prædicto Armig. in Custod.* H. B. *Vic. Com. prædictis, &c. ad barram duct. in propria persona sua de morte prædict.* C. D. *nuper patris ejus de eo quod ubi idem* C. D. *die, &c. Anno, &c.*

An Appeal of Mayhme.

A. B. *in propria persona sua appellat* R. L. *de* D. *Com. Ebor. Armig. de eo quod ubi idem* A B. *fuit pace Dei & Domini Regis, nunc apud* C. *in Com. prædict. die & anno, &c. idem* R. L. *ven. & in eund.* A. B. *malitia sua præcogitat. insult. fecit & armat. in ip. modo manum dextram ipsius* A. B. *amputav. (vel ip. baculo super caput ejus percussit, unde penetravit caput ejus vel lapide tres incisorum expungit, per quod ipsum feloniæ mayhemavit, & quam cito, &c. Et si, &c. idem* A. B. *parat. est versus eum probare, prout Cur. &c.*

Of Wounding thus.

A. B. *in propria persona sua, &c. de eo quod ubi præd.* C. D. *&c. eundem* A. A. *tali telo ipsum percussit ipsum in tali parte Corporis sui vulneravit, quod qui- vulnus continet tantum longitudine, tant. in latitudine, tantum profunditate: Et hanc plagam felonice dedit, & cito, &c. Et si, &c. idem* A. B. *hoc para. est versus probare prout Cur. &c.*

An Inquisition of Murder.

Inquisitio indentat. capt. apud Paroch. *de* S. *in Comitat.* Middlesex, *xxv. die* Martij, *Anno, &c. coram* T. E. *un. Coronatorum Com. prædict. super visum corporis* *ustam* W. F. *adtunc & ibidem mort. jacen. per sacrum* W. R. W. H. P. J. A. J. B. L. S. M. L. J. K. B. W. H. R. G. & N. S. *proborum & legalium ho- num Paroch. prædict. & quatuor aliar. Villar. in Com. dicto eidem Paroch. prox. adiungen. jurat. triat. & rat. ad inquirend. ex parte dict. Do. Regis, qualiter & modo prædictus* W. F. *ad mortem suam devenit super rum suum dicunt quod prædictus* E. L. *nuper Paroch. de prædicta in Com. prædicto* Labourer, *xx. die* Martij, *no, &c. prædict. timorem Dei præ oculis suis non habens, instigatione Diabolica motus & seduct. vi & armis, &c. d Parochiam prædictam. in Com. prædicto, & supradict.* F. *in pace Dei & dicti Domini Regis existen. ad tunc ibidem felonice insult. fecit, Et quod prædict.* E. L. *dem* W. F. *adtunc & ibidem in terram dejecit & præ- itavit; Et præfat* E. L. *cum manu sinistra & ambobus ibus ipsius* E. L. *prædictum* W. F. *(sic ut præfertur in* Middlesex ff.

terram proſtrat.) in, & ſuper Pectus ſuum cum manib
pedibus ſuis felonice percuſſit, verberavit & calcavit
eidem W. F. *adtunc & ibidem cum manu ſiniſtra & a*
bus pedibus ipſius E. L. *in, & ſuper Pectus ejuſdem W*
dedit unam contuſionem mortalem, longitudinis ſex p
cium, & latitudinis quatuor pollicium, de qua quidem
tuſione mortal. prædictus W. F. *ad tunc & ibidem inf*
languebat & languidus vixit, à dicto xix. *die* Martii
no, &c. uſque xx. *diem dict. menſis* Martij, *tunc prox. ſe*
quo die prædict. W. F. *apud Paroch. prædict. in Com*
prædict. ex contuſione mortal. præd. obiit; Et ſic
tor. prædict. ſuper ſacrum ſuum prædict. dicunt
prædict. E. L. *prædict.* W. F. *felonice interfeci*
murdravit, modo & forma prædict. contra pacem
Dom. Regis, Coron. & Dignitat ſuas; Et quæ bon
catalla prædict. E. L. *habuit tempore felonia præ*
modo & forma prædict. per ipſum fact. & commiſs. i
Jurator. penitus ignorant.

In cujus rei Teſtimonium tam ego præfat. Coron.
Jurator. prædict. huic Inquiſit. Sigilla noſtr
ternata appoſuimus, die Anno & loco ſ
dict.

An Inquiſition in Man-ſlaughter, where was Starved, and periſhed for want ſuſtenance.

Middleſex ſ.

INquiſitio indentat. capt. apud Hampſtead in Com. M
dleſex, xx. die Decembr. Anno, &c. coram J. G.
un. Coronator. ejuſdem Domini Regis Com. præd. ſuper
ſum corporis W. T. adtunc & ibidem mortui jacen.
ſacrum R. H. W. P. T. E. M. W. J. M. N. D.
P. B R. B. R. C. J. B. E. F. J. W. J. C. J. H.
C. J. S. & J. M. probor. & legal. hom. de Hamp
prædict. & de quatuor al. Vill. in Com. prædict. Vil
Hampſtead prædict. proxim. adjungent. qui onerat.
rat. ad inquirend. qualiter quando & quomodo prad.

rtem suam devenit super sacrum suum dicunt quod
de W. in Com. prædict. Taylor, & S. Uxor. ejus,
præ oculis suis non habent. sed instigatione Diabol.
& seduct. xx. die Novembris, Anno, &c. supradict.
armis, &c. apud W. præd. in Com. prædicto, in, &
eundem W. . adtunc Apprentic. ipsius J. B in Pace
& dicti Domini Regis, adtunc existen. felonice, vo-
rie, & ex malitia sua præcogitat. insult. fecer. & quod
prædicta S. adtunc scilicet prædicto xx. die Novembr.
præd. & diversis al. diebus & temporibus, tam antea
postea apud W. præd. in com præd. felonice, voluntarie,
malitia sua præcogitat. detinuit & detraxit ab eodem
L. & eidem W. T. non exhibuit & dedit bon & suf-
aliment. vict. amict. lecturam, medicin. ac al. ne-
ea intentione præfat. W. T. per indigent. inde mi-
iter langueret, interiret, & moriretur, de quibus
detentione & subtractione aliment. à præfat. W. T.
non exhibitione & allocatione eidem T. W. bon &
cien. aliment. vict. amict. lecturam, medicin. ac al. ne-
per eundem S. prædict. W. T. à prædicto xx die
embr. Anno prædicto usque xv. diem Decemb. tunc prox.
Anno prædicto apud W. prædict. in Com. prædicto
rabilit. languebat & languescens miserabilit. vivebat.
quem quidem xv. diem Decembr. Anno prædicto præd.
T. pro Def. bon. sufficien. aliment. vict. amict. lectur.
dicin. & al. necessar. apud W. præd. in Com. prædicto
rabiliter interiebat & moriebatur: Et quod prædict.
simul ac cum præd. S. Uxor. ejus tempore felon & murdr.
per præd. S. modo & forma præd. fact. & comiss.
nice & voluntar. & ex malic. sua præcogitat. fuit præ-
assistens, abbetians, procur. comfort. & maintenen.
fat. S. prædictum W. T. modo & forma prædicta inter-
& murdrare: Et sic Iurator. præd. dicunt super sa-
m eorum præd. quod ipsius præd. J. B. & S. Uxor. ejus
dictum W. . modo & forma præd. felonice, volunta-
& ex malitia sua præcogitata interfecer. & murdra-
contra Pacem dicti Domini Regis Coron. & Dignitat.
&c. Et sic prædictus W. T. ad mortem suam devenit
non aliter, neque ullo al. modo præterquam sicut supra-
Quod bona, & catalla, terra, sive tenementa, præfat.
B. & S. Uxor. ejus tempor. felon. & murdr. prædict.

per prædict. I. B. & S. ux. ejus, modo & formâ prædict. fact. & commiss. ullo alio tempore postea (usque captionem istius Inquisition.) habuer. iidem Juratores penitus ignorant. In cujus rei testimonium, &c.

Inquisition where one is slain by misfortune by a Cart loaden with hay.

Middlesex. ss. INquisitio indentat. capt. apud, &c. Qui dicunt super Sacrum suum, quod prædictus A. B. x. die Maii, anno &c. prædict. apud S. prædict. in Com. prædict. cum caruca sua à S. prædict. usque L. in dict. Com. via inter S. & L. prædict. (scil. apud, &c. prædict. in Com. prædict. caruca sua prædicta feno onerato, anglice, his said Cart loaded with Hay, cecidit super corpus prædicti A. B. & ita quassavit & fregit Corpus suum quod quassatione & fractura ejusdem prædict. A. B. adtunc & ibid. incontinenter obiit. Et sic Juratores prædicti super Sacrum suum prædict. dicunt quod prædictus A. B. modo & forma prædict per infortunium ad mortem suam devenit. Et ulterius Juratores prædict. super sacrum prædict. dicunt quod adtunc & ibid. quatuor equi cum Caruca prædict. & onere feni, continens ponder per estimationem quadraginta ponder, anglice, containing in weight by estimation forty stone, moverunt ad mortem prædict. A B. & quod prædict. quatuor equi sunt pretii octo librar. & decem solid. & quod prædict. Caruca est valoris xx s. Et quod prædict. Caruca remanent in Custodia C. D. de S. prædict. scilicet nuper ux. præd. A. B. Et quod prædict. xl. pond. feni, anglice, the aforesaid xl. stone of Hay, sunt valoris xl s. & x denar. & remanent in custodia E. F. de S. prædict. gen. In cujus rei testimonium, tam Coron. quàm Juratores, &c.

Another, where one by misfortune is slain by the fall off a Scaffold.

Middlesex. INquisitio indentat. capt. &c. qui dicunt super sacrum corum, quod prædic. P. H. xxvj. die Augusti, anno, &c. prædic. apud K. in Com. prædic. quod dum tabulatum

quam ligno voc. Deales, *& ſudibus abiegnis, anglicè,* firr-poles, *fact. ad domum* I. B. *ſituat. & exiſten. apud* prædic. *erexit ad dom. prædic. imbricandum.* Et E. M. C. *filiam* W. C. *infantem in brachiis ſuis haben.* ambuland. *in via publica per eandem domum, &* prædict. P. H. *adtunc & ibid. ſuper idem tabulatum ſol.* morand. *Et prædict. tabulatum putrido meremio fact. un.* dam abiegnarum, anglice, one of the firr-poles, *tabulat.* prædic. *ſupportans, fregit, ita quod tabulat. prædict. ſu-* per caput ejuſdem M. C. cecidit, *& Cavariam capitis ipſi-* M. C. *aliquant. ſupra aurem ſiniſtram ipſius* M. C. *ad-* tunc *& ibid. capitaliter contuſit & fregit longitudinis du-* rum pollicium, *& latitudinis unius pollicis: de qua qui-* dem mortali contuſione *& fractione prædic.* M. C. *inſtant.* languebat, *& languide vixit à prædic.* xxv. *Auguſti, an-* no prædicto, *uſque* xxvii *diem ejuſdem menſis Auguſti, ſu-* per quem quidem xxvii. *die Auguſti anno prædicto. præfat.* M. C. *apud* L. *prædic. in Com. prædic. de contuſione & fractione mortali prædic. moriebatur. Et ſic Jurato.* res prædic. *ſuper ſacrum eorum prædic. dicunt quod prædic.* H P. *prædic.* M. C. *per infortunium occidit & interfe-* cit *& contra voluntatem ejus, modo & forma prædic. &* alia bona *& Catalla prædic.* P. H. *tempore homicid. per in-* fortun. *habuit, modo & forma prædic. per ipſum commiſſ. & perpetrat contra voluntatem ejus, Juratoribus penitus in-* cognitus exiſtit. *In cujus rei teſtimon. &c.*

An Inquiſition where one drowns himſelf.

INquiſitio indentat. *capt. &c. qui dicunt ſuper ſacrum* Felo de ſe.
ſuum, *quod prædict.* A. B. *ſecundo die Maii, anno, &c.* prædict. *circa horam oct. ante merid. ejuſd. diei, Deum præ* ſentialis ſuis non habens, *ſed inſtigatione Diabolica ſeduct. &* mot. *ex malitia ſua præcogitata apud* M. *prædict. in Com.* prad. *adtunc & ibid ſol. exiſten. in communi Rivola ibid.* ſeipſum voluntarie *& felonice ſubmerſit. Et ſic Jurat. præd.* ſuper ſacrum ſuum *præd. dicunt quod præd.* A. B. *modo & forma præd. adtunc & ibid. voluntarie & felonice, ut felo* de ſeip. *occidit & murderavit contra pacem, &c.*

In cujus rei teſtim. tam Coron. præd. quàm dict. Jurat. &c.

If one Hang himself, then the Inquisition, thus;

Middlesex ff.

INquisitio indentat. & (the hour, &c.) Dcum præ oculis suis non habens, sed instigatione Diabolica seduct. & mot. apud S. prædict. in quodam bosco sive nemore eidem S adjungent. adtunc & ibidem sol. existen. cum uno Fune Cannabacco pretii unius Denarii, quem ipse adtunc & ibi in manibus suis habuit & tenuit, & unum finem inde circ Collum suum adtunc & ibid. posuit, & alterum finem in circa ramum cujusdam arboris Quercei ligavit, & seips adtunc & ibid. cum Fune prædicto voluntarie & felon suspendit & suffocabat, & sic Furatores præd. super Sacr suum præd. dicunt, &c.

No forfeiture of Lands.

SHE

SHERIFFS TOURN, AND COURT-LEET.

Of the Originall or first Institution of them.

ALFRED, Governour of this Nation in the year of mans redemption, 872. was the first institutor of this Court which we now determine to treat of, then called *SCIREGMOT* that is to say, the Assembly of the *Shire*, *Sheriffs Tourn*, and sometimes called the *Sheriffs moot*. It seems to have the appellation of *Sheriffs Tourn*, of the French word (*Tour* viz. *Ambitus*, *circuitus*, *vicissitudo*) and is by *Britton* stiled *Tour*, cap. 61. *sub fine capitis*; as if we should say, *The Sheriffs course*, or perambulation; For (as *Britton* noteth in his 29th. Chapter) that which before the Sheriffe is called the *Sheriffs Tourne*, is called in the Court of Franchises and Hundreds, *The view of Frank-pledge*: Wherein enquiry is spe-

Lamb. E. 4. c. 4.

Britton c. 29 & c. 61

ſpecially made of ſuch as be not in *Doxin*: with whom *Fleta* accords. And by *Fleta* it appeareth that this Tourn was the Sheriffs courſe to keep his Tourn in every Hundred, *l.2.c.52. Habet etiam rex cur' ſuam in turnis, vic, & vicibus Hundred'*, &c. And in many Books it's denomination is the Kings Leet, and Sheriffs Leet.

Fler. E. 2. c. 62.

Br. 21.23. Powel.

Two Courts were aſſigned to the Sheriffe (by the ſaid *Alfred*) by which two Courts the whole County was governed, *viz.* the County or Shire Court, for one man to have remedy againſt another, in any matter ariſing between them under fourty ſhillings. And the *Sheriffs Tourn*, unto which every man within the County above the age of 12 years, and under 60. are compelled to come, that they might not be ignorant of the *things* there publiſhed (or given in charge) whereby they were to be governed; and this was called *Suit real*, by reaſon of their Allegiance; Unto which they were ſworn to be true and loyall to the King. And it was learnedly ſpoken by a Reverend Judge, Juſtice *Flemming*, in a Speech of his concerning the neceſſity of *Sheriffs Tourns*, and *Law-dayes*, who ſaid that it was *Schola inſigniendi juvenes*, a School to direct and inſtruct young men in the antient Laws of the Common-wealth, and to prepare them for greater employment at more great Conventions, as the *Aſſize*, *Goale-Delivery*, or *Seſſions of the Peace*.

Suit real, what it is.

Leets, how firſt granted.

Now becauſe the people did undergoe great trouble and vexation in travelling to the Sheriffs Tourn, *Leets* or view of *Frankledge* were granted to Lords of *Mannors* within certain precincts, yet this Court, in whoſe Mannor ſoever it is kept, is accounted the *Kings Court*, becauſe the authority thereof is originally appurtenant to the *Crowne*, and thence derived to inferiour perſons. And *Dyer* likewiſe ſaith, that this Court was firſt derived from the Sheriffs Tourn.

Kitch. f. 6. Dyer, f.64 & 13. Jer. of Law Co. l 4.33. & l. 6. 12. 2 E. 4. 42 F. N. B. 82. 161.

This Court is a Court of Record in all things that appertain to the *Tourn* or *Leet*, and Sheriffe of the *Tourn*, or Steward of the *Leet*, are therein Judges of Record. For whoſoever hath the *Leet*, hath the ſame authority within the Precinct, as the Sheriff hath within the *Tourn*.

of

Of the power and authority of the Judge of the COURT.

THe Steward, or Judge, hath a double power and authority in the Court.

1. *Election of Officers.*
2. *Correction or punition of offenders.*

In that of *punition*, a double Act is to be respected.

1. *Actus Curiæ.* the Act of the Court.
2. *Actus Patriæ*, the Act of the Country, or Jury.

The authority of these two Acts do encounter with two sorts of offences or misdemeanors, being furnished with a double weapon.

1. *Fine.*
2. *Amerciament.*

The one sort of offences are } *Extra curiam.*
The other sort are } *In curia.*

1 Now, to oppose and subdue those extrinsicall offences, *viz*. those that are *Extra curiam*. The Jurors that are sworn to present, have peculiar cognizance, and therefore authority and power to present them, and to assess *Amerciaments.* *Extrinsical offences.*

2 The second weapon to oppose intrinsicall offences, *viz*. those that are *in curia*, which offences are either in omitting or neglecting a duty enjoyned, which ought to be performed by the Jurors, Constable, Bayliffs, *&c.* or in committing some contempt, and disorder, in the face of the Court, by any Officer or Suitor. *Intrinsical offences.*

The Steward hath cognizance, and may punish it by *Fine*, without enquiry by the Country, as,

If a suitor being sworn of a Jury, shall refuse to make a presentment there; or if he doe depart without giving up his

Co. 8. 38. *A Suitor refusing to make Presentment, or refuseth to be sworn*

his Verdict, or if he refuse to be sworn, the Sheriffe or Steward may impose a reasonable *Fine* upon him.

He may impannel a second Jury to enquire of the defaults and concealments of the first, and to *fine* them for their offence.

For default of resians he may compell a stranger coming within the View, to be of the Inquest.

What may be enquired of in this Court.

THe Steward may enquire of several particular misdemeanors, comprized and enumerated in the Statute of 18 *E.* 2. even from the highest Treason, to the lowest Trespass, though not here punishable. Which so farr as they may concern the moderne jurisdiction of our present times, such as are neither absolute nor antiquate, you shall finde in this ensuing Tract, *viz.* In the charge of this Court. *Finch Law* 125 *cap.* 20. *Stat.* 22 *E.* 4. 22. *Mag. Chart. cap.* 17.

What things are not to be enquired of in This Court.

No commitment to prison, &c. *yet he may take a Recognizance for the Peace,* Co. Instit. 4. fol 263.

HEe cannot enquire of the Statute of Labourers, or indict one feloniously committing a Rape; yet such Indictments must be delivered to the Justices of the Peace, according to the Statute of 1 *Ed.* 4. *Bract. præsent.* 16. *Fitz. Tourne* 3. 4 *Edward* 4. 8 *Edw.* 4. 5. 22 *E* 4. 22. 9 *H* 6. 44. 8 *H* 7. 4.

He cannot commit any man to prison for his contempt, neither can he take recognizance or binde a man to good behaviour, as formerly he might, and as the Sheriffe in his *Tourne* may do. Yet *Co. Instit* 4. *fol.* 263. holdeth that he may take a *Recognizance* for the peace.

He

He cannot hold plea of any thing appertaining to the Crown, nor touching Free-hold or Lands, nor debt, treſpaſs, or otherwiſe. *Mag. Char. ca. cap. 17.*

This Court cannot take Indictment of any Felons for the death of any man, or in any other caſe wherein it hath no cognizance; If it do, it is *Coram non judice*, and void, neither can it take a preſentment of an offence done to a Pariſh or a particular man. *No Indictments of felony for death.*

Such things as are Treſpaſſes by the Statute, or offences againſt any Statute, the Sheriffs Office doth not extend to it here, except the Statute doth give in it an expreſs authority to the *Tourne* or *Leet*; for *Nulla eſt generalis regula ſed admittit exceptionem.* 28 E. 3. 55 21 E. 4. 21. 3 H. 7. fo. 1. Br. Leet, 19, & 25.

Nothing but *Nuſances*, and *Grievances*, *Offences* or *Treſpaſſes*, as are popular and common to many perſons; And therefore Treſpaſſes for breaking of Cloſes, nor Aſſaults made to a ſole and particular perſon, is here inquirable, except there be blood ſhed. Br. Leet 26 Dyer 234. Fitz. tourn. 1. 4.

It was the occaſion of a very learned Conteſt or Argument, *Paſch* 24 *Car. B. R.* whether a Court *Leet* may enquire of private *Aſſaults* and *Batteries*, if there be no blood-ſhed in the caſe? *Bacon* Juſtice, and *Walker* an Apprentice of the LAW in the Inner TEMPLE, held that a Court *Leet* might enquire of them; But Juſtice *Roll* held the contrary, becauſe they are actionable at the COMMON LAW only, by the party injured, and are not publique offences againſt the publique. *Styl prac. Reg.*

Upon all Preſentments and Indictments taken before the Sheriffs in his Tourn, he hath not power to attach, arreſt, or put in priſon, nor to levy, nor take any *Fines* or *Amerciaments* of any perſon ſo indicted or preſented before them, by reaſon or colour of any Indictment or preſentment taken before them in their Tourns, but the Sheriffe ſhall bring and deliver all ſuch Indictments and preſentments to the Juſtices of the Peace at the Seſſions, that ſhall be holden for the ſaid County; if not, a forfeiture for every one not delivered 40 *l.* *Delta fol.* 155.

What

What things are considerable in holding Tourns or Leets.

HAving demonstrated what things are to be enquired of here, and what are not. Now, three things are considerable in the holding of Tourns, or Leets *viz.*

1. Time.
2. Place.
3. Persons.

Fitz. Leet. 11. *Stat.* 9 H. 3. c. 33.

1. As to the time, it must be kept twice a year according to *ALFRED*, *quotannis celeberimus bis conventus agetur*, one moneth after *EASTER*, and one moneth after *MICHAELMAS*, At the Tourn after *EASTER*, no Actions popular are to be enquired after, *&c.* but only to take their Suite, who are Suitors, and to take the view, *&c.* And at the Tourn after *MICHAELMAS*, then to enquire of such as are enquireable. *Mag. Charta cap.* 35.

2. Now to the place where it is holden, and that must be within the Precinct and Liberty, *in loco debito et consueto*, and if it be done otherwise, what ever is acted in it is voyd, *et coram non judice.*

3. Thirdly, what persons are to appear in this Court? they are all the Free-holders within the Precinct or Liberty are obliged to come, by the service of their Fees: and all other people above the age of 12. years, and under 60. only Ecclesiastical and religious men, all Earles, Barons, Tenants in antient demesne, and all women are excepted, because they are never sworn upon any Inquest

52 H. 3. c. 2 & 10. Br. Leet 42 Fitz. 106. c. 161.

Jury,

Jury, what.

THere muſt be at the Court twelve (at the leaſt) of the moſt diſcreet and ſufficient Free-holders, ſuch as be of repute and eſtimation, and have Freehold Lands within the ſame County of the value of twenty ſhillings at the leaſt, who ought to be impannelled and ſworn (by the Sheriffe) to enquire of, and preſent all things there inquirable and preſentable; who ought to take all Indictments by their oaths, and muſt deliver in their Rolls and Inquiſitions indented and ſealed between the Sheriffe (or Steward) and the Jurors. *1 R. 2. cap. 4. Weſtm. 2. 6 H. 4. fo. 1.*

And if there be not twelve to be ſworn, the Sheriffe or Steward may cauſe ſtrangers that come within the view to be of the Inqueſt. *2 H. 7 fo. 4.*

How Amerciaments are forfeited, and what ſhall be cauſes to amerce. &c.

AMerciament in Latine is called *miſericordia*, which ſignifieth moderation and mercy, becauſe it ought to be aſſeſſed mercifully, and ought to be moderated by aſſerment of his equals (otherwiſe a Writ *de moderata miſericordia* lieth which Writ and the Law in that caſe is grounded upon the grand Charter *cap.* 14. *Quod nullus liber homo amercietur niſi ſecundum quantitatem delicti*: or becauſe the party offending putteth himſelfe on the mercy of his Majeſty. And the difference betwixt a Fine and an Amerciament is, That a *Fine is aſſeſſed by the Court, but Amerciament by the Country*; For Amerciaments are to be impoſed *per juramentum legalium hominum de vicineto.* *Co. on Lit. 2. c. 11 p. 194.* *Co. part. 8.*

Glanvil in his Book ſaith, *Eſt autem miſericordia domini regis qua quis per juramentum legalium hominum de viceneto eatenus amerciand. eſt.* And *Fleta lib. 1. cap. 48.* ſaith. *Quod liber homo non amercietur niſi per ſacramentum parium ſuorum.* And with theſe agreeth, *Bracton*

Fraction lib. 3. cap. 1. Fitz N. B. fol. 72. And if a Steward ſet an Amerciament upon a man on his own hea it is voyd: By which authority, it plainly appeareth th Amerciaments are to be impoſed by a Jury, or by the ou of good and lawful men: and therefore I have much admire when ſometimes I have ſeen Stewards aſſume upon the ſelves to ſet down Amerciaments without the aſſiſtance the Jury, which Act, was directly oppoſite to the gr Charter of *England*, and contrary to the ſaid Authoritie *Law*.

Of Amerciament,

BUT to demonſtrate the cauſe of Amerciament, o The not appearing at a Leet is a good cauſe to merce a Reſiant, and the Lord who diſtraines for the merciament needs not ſhew for what he diſtraineth, b fore the tenant hath tendred ſomething for amends, a though the tenant doth not know the cauſe, 45 E. 3. *Avowry* 80. *vi.* 11 *H.* 4. 89. 12 *H.* 7. 15.

43 E. 3. 9. *Avowry* 80 *v.* 11 *H.* 4. 89. 12 *H.* 7. 15.

If a man be amerced for a thing done in a Town whe in he dwelleth, he may be diſtrained for it in any place wi in the Hundred or Leet, 11 *H.* 4. 88.

11 *H.* 4. 88

A Suitor at a Leet may be amerced for not preſent things preſentable, being ſworn with others; and a ge ral Avowry, but he may ſay, that there was nothing to preſented, 11 *E.* 3. 9. *Avowry* 155. 10 H. 6. 7. *lib. Enteries: Debt*, 149. *Co. part.* 8. Greiſleys *caſe*.

11 *E.* 3. 9. *Avow.* 155 10 *H.* 6 7. *Co. Rep.* 8. Grieſleys *Caſe*.

A. B. was amerced in a Court-Leet for receiving a keeping one in his houſe, who was not ſworn to the in which caſe it was holden, that no goods could be diſtr ned for this Amercement, but only the proper goods the party amerced, although the goods of others, were vant and couchant on his ground. 41. *E* 3, *fol.* 26. *Leet* 4. and in the 47 *E.* 3. *fo.* 12. The Prior of *dal's* Caſe, where the Prior was amerced, and anot man's goods were taken and diſtrained on the grounds the Prior for the ſaid amercement, and the diſtreſs

well taken; for a fine or amerciament are collateral du-
, and attend upon the perſon, and do not charge
Soil.

A Reſiant was amercied for not cleanſing of a Ditch, and a
ne levied upon him, that he cleanſed it after, and a diſ-
ſe taken for not doing of it, &c. 29 *E.* 3. 36. 41 *E* 3. 26. 29 *E.* 3. 36. 41 *E.* 3. 26.
Reſiants and tenants may be amercied in the Leet for re-
ing to ſwear, 38 E. 3. 18. *Conuſance* 23.

The Lord of a Leet ſhall not preſcribe to amerce the pet-
Jury for their falſe Verdict, the ſame being found by
grand Jury, for it is no good cuſtome; but they may
amerced for concealing of any thing which is preſent-
e there, and this is by cuſtome, *M.* 9. H 6. 42. 9 *H.* 6. 42. *Cuſtom.*
ſtome.

An amercement in a Leet may be well levied by an
ion of debt, 12 *H.* 2. *Ley* 43. 10 *H.* 6. 7.

One was amercied for brewing Ale, and ſelling it con-
ry to the Aſſize within the Hundred, and it was hol- *Aſſ.* 13.
, that although he was reſiant within another Leet, yet *E.* 2.
amerciament is good where it is made, ſo it is where one *Avowry*
s Bread and Ale in a Market which is in another Leet, 105.
n where it was brewed, &c. *Aſſ.* 13 *E.* 3. *Avowry* 105.

W. Brought an action of treſpaſſe againſt *H.* the de- *Paſc.* 15
ant juſtified, that the Plaintiffe was a common Baker, *Mar. Rot.*
elling in *T.* in the County of *N.* and that it was pre- 15 1.
ed in a Leet, in that he had ſold bread againſt the
ſize *in locis vicinis*, whereupon he was Amerced, and
amercement aſſeſſed to 10. *s*: and that by a precept out
the Court, he did diſtraine the Plaintiffe, and the
ourt gave judgment for the Plaintiffe, becauſe it did not
pear, that the offence was committed within the juri-
ction of the Leet, which ſhould have been ſpecially pleaded,
, but perhaps the preſentment in the Leet is good,
ithout ſpecial mention in the preſentment that it was done
the juriſdiction, if the truth were ſo: and note that the
ſentment was not ſo full and perfect. And it was noted by
bert that the plea was abſurd, for it was ſaid that he was
erced without ſaying (what,) and that the amerciament
s affeered to 10 *s.* for which he diſtrained. Now the Jury
uſt amerce to a certain ſumme which may be mitigated and
ered by others, and therefore ſuch offices cannot be con-

founded. *Hob. rep. fo.* 129. *Wilton & Harding.*

47 E. 3. 12 If my Horse be in the keeping of another man, he may be distrained: if I be amerced in the Leet for stopping the 10 H. 7. 21 High way, *&c.* 47 E. 3. 12. But if an Inn-holder be amerced, the horse of a stranger cannot be distrained: 10 *H.* 7. *fol.* 21

By 3 *H.* 7. *fo.* 4. A Distresse taken for an amerciament in a Leet or Law-day, may be sold as well in the c where the subject hath by Charter or Pfescription the pro fits of the said Courts, as where the King himselfe ho them; and all the reason, which that book yeildeth for is, becau e they be the Kings Courts: But a distresse ta ken for an amerciament in a Court-Baron cannot be sold and in 22. *Assiz. plac.* 72. it is said, that if one recover debt in a Court Baron, the goods of the debtor could n be sold for it: Yet I have seen always in practice, that debts and dammages recovered in the County-Courts, t goods of the debtors have, and be usually sold for-the by *Levari facias*, which, (I beleive) is vsed *per tot Angliam*: and a sale, in such a case in Court-Baron is good and with this agreeth the book of 7 *H.* 4. *fo.* 27. and 11 *H* 7. *fo.* 40. in a Court-Leet one prescribed and alle a Custome, to have of every one which made an affr within his liberty, a certain summe of money, and pr scribed also to distraine f r it, and to sell the distres and with this agreeth 11 *H.* 4. 14. and 11 *H.* 4. *fo.* 2.

Note that in 8 *R.* 2. *Avowry* 194. If one be amerced in t Sheriffs tourn, the Sheriff may distrain throughout the wh County; and in like manner if the amerciament be in a Le throughout all the precincts of the Leet.

Stat. E. 1. 4 The Statute of 1 *E.* . expresly appoints, that no fi or amerciament in the Tourn or Leet shall be levyed, u lesse it be certified at the next sessions of the peace by *denture* inrolled there, and by processe made from t Justices of the Peace to the Sheriffe or Steward.

How Presentments in Leets shall be traversable.

A Traverse is a plea of the party, containing matter the contrary of that, that the party stands accused or which is laid to his charge.

Now

Note, *Scard* saith, that if a thing be presented at the in a *Leet*, this is as *Gospel*, if it pass that day without be- repealed: And therefore if a false presentment be made, shall have an Action of false imprisonment the same day inst the prosecutors, but if he stay untill another day it is rwise: and he who is amercied there for purpresture, or er Nusance in *Avowry*, for the amerciament he shall tra- e in no point. *Wilby*, If it be presented, that he hath ed a Ditch over the High-way; if the presentment be , he shall have trespass against him who throws it down force of such presentment: And so of my house abated, by on of such false imprisonment, *Hill.* 21. *E.* 3. *Bar.* 271. In some cases the Books and authorities of Law admit the y to a Traverse, and in other cases the same is to be deny- for in the 5 *H.* 7. *fo.* 9. and 45 *E.* 3. *fo.* 8. and 28 8 *Dier*, *fo.* 13 if one be presented in a Court *Leet*, for lowipe or any other personal wrong, this Presentment is traversable, but the party is without remedy therein, ugh the presentment be false, and the matter of it untrue; the Law is also of such a presentment made in a Sheriffs n: and herewith also agree the books of 2 *R.* 3. 11 and H. 8. 11. *Fitz. Assiz plac.* 442. and 8 *E.* 4 5 and the son thereof (for *ratio legis, est anima legis.*) is delivered 5 H. 7. because no Process is there awardable against the y to call him to answer: yet in the same book of 5 H. 7. is said, *That if a presentment be made which toucheth a ns Freehold, he may there traverse the same* But, I take the party must first remove the presentment into the Kings nch, and there traverse it; for in the *Court Leet* there can no traverse taken or tryed, no more where the presentment cheth Free-hold, then where it duely concerneth a perso- l wrong; Therefore the reason alleadged in 5 H. 7. ac- ding to the opinion of *Callis* in his reading upon the Sta- e of *Sewers*, *fo.* 169: cannot be the true cause wherefore perso al wrongs the presentments cannot be traversed; but very true reason therein is: because these petty present- nts, be of such petty trifling matters, that in avoidance of uble, the law esteemeth them not worthy of traverse and *de minimis non curat lex.* and Justice *Fairfax* in 5 H. is of opinion, *That a Presentment made before Justices of ace in a Sessions is traversable*; and with this agreeth

Hill. 21 E. 3 *Bar.* 271.

Stanford, fo. 183. and in other Courts of Law, there often times fall out matters which one ſhall not be admitted to traverſe unto, and in ſome other caſes he ſhall, as by the ſucceeding authorities may appear. Now, I muſt crave your pardon (Candid Readers) for a Digreſſion, there is nothing of it but may come within your caſe at one time or other. In the 37. Aſſiz. plac. 7. a preſentment was taken before Gr. and *Ingham*, Juſtices of the Kings Bench, That *I. S.* had killed *A.* had goods to the value of 80 *l.* in the hands of one *John Lombard*; and upon this preſentment a *Scire facias* was awarded againſt *John Lombard*, to ſhew cauſe wherefore theſe goods ſhould not be ſeiſed to the Kings uſe: *Jo. Lombard* came in and tendred a plea to the preſentment, that theſe goods were not the felons, but that they were delivered to him to keep to the uſe of a Cardinal of *Rome*, and he was there admitted to this plea; and with this agreeth 45 *E.* 3 fo. 2. expreſsly: yet in that book, and *Stanford, fo.* 185. it is holden for Law, that if it be preſented before a Coroner, that *I.S.* killed *A.* and fled for the ſame fact, and after, upon his tryal he is acquit, yet he ſhall forfeit his goods upon the *fugam fecit* before the Coroner, and he ſhall not be received to take any traverſe to the ſaid preſentment in that point. The difference in which two caſes is this, That a ſtranger, as *John Lombard* was, in the firſt caſe, ſhall not be peremptorily concluded; for it were no reaſon one mans good ſhould be forfeited in another mans default, and he ſhould have no day to ſwear thereunto: but in the other caſe, in terrour of Felony, though he be acquitted of the felony, yet he is not acquitted of the flying, and he may be guilty notwithſtanding his acquittal. There be other caſes in the Law, which admit no traverſe, as in *Baggs* caſe, *Cooke* 11. *rep.* where a writ was directed to the Mayor and Burgeſſes of *Plymouth*, to reſtore *Baggs* to his Aldermans place there, which they had put him from, and they return a cauſe ſufficient to bar him, which notwithſtanding is falſe; yet he ſhall not be received to his traverſe therein; neither could a traverſe be admitted in the certificate of the Bp. wherein was contain'd, that *I. A.* parſon of *D.* had refuſed to pay his Diſmes to the King, by means whereof the Parſon loſt his Benefice, which caſe is in *Fr. caſes, temp. H.* 8. *pl.* 332. *& Dier. fo.* 116. *&* 7 *H.* 4. *fo.* 4. *&* 21 *H.* 7. 8. and many other books be, that no averments ſhall be

en to the returnes of Sheriffs, to take any issue thereupon: by the opinion of those Books an Action upon the Case ch against the Mayor and Burgesses, and against the Bi- for their Certificates, and against the Sheriffs for their returnes; and if Justification be made by them, they be traversed: But these will not reduce the parties to former liberties, *viz.* no the Alderman to his place, the Parson to his Church; but damages in those cases onely recoverable. But now to return to the Tract from ich I have a little deviated.

He who is amerced in a *Leet*, may traverse the resiancy, but shall not say, that the place where, &c. is within another w, 4 *E.* 3. 12. 10 *E.* 3. 5. 41 *E.* 3. 26. But if he hath n sworn in my *Leet*, he shall not have the traverse. 4 *E.* 3. 10 *E.* 3. 9.

The Method of keeping the Sheriffs Tourn, or Court-Leet.

LEt the Sheriffe (or Steward) make a Precept unto the Bayliff, to summon the Court by a reasonable time: to fifteen or sixteen dayes before the Court be kept (if it be time it is sufficient in Law) the Precept must be made according to this subsequent President.

A. B. *Ar. Vic. Com. Ebor. ballivo libertat. (sive Wapen.) de S. salut. Tibi mando quod diligenter promonire Cur. cum vis. Franc. pleg. tenend. infra libertat. praeff. xvi. die August. sequent. circa horam octav. ante rid. einsd. diei. apud comm.* Tolbooth *de* R. *Et hic at. subsigill. offic. mei. xxviij. Julii, anno Reg. Car. sec. igrat. Angl. Scot. Franc. & Hibern. fidei defensoris, &c. xiii.*

Per Vic. Com.

If it be in a Court Leet held in a particular Hundred, or Mannor of any Lord, then the form of the Precept is thus,

A. B. *Gen. Seneſchal.* I. N. *Ar.* Hundred, *ſive Mann. ſui de* O. *Ballivo ejuſd.* Hundred *ſive Mann. ſalutem, mando quod diligenter præmunire fac. hanc Cur. cum Franc. pleg. Hundred. ſive Mann. præced. tenend. ad locum conſuet. de* S. *xvi die Aug. prox. ſequent. Et hoc &c. ſub ſigill. meo xxviii die Iulii anno Reg. Car. ſecund. Dei gratia Ang. Scot. Franc & Hibern. fidei defenſoris, &c. xiv.*

By me A. B. *Steward.*

After the Steward hath placed himſelf in the Court, he muſt firſt enter the Court in the title of the beginning of the Court Roll, with the name of the place where the Court is holden in this manner:

Ebor. ſs. *Viſus Franc. pleg. cum Curia* A. B. *Ar. vic. Com. prædict. tent. apud* D. *die Martis decimo-ſexto die Martii, anno regni Domini noſtri Caroli ſecundi, Dei gratia Angliæ, Scotiæ, Franciæ & Hiberniæ regis, fidei defenſoris, &c. decimo-quarto &c. Anno Dom.* 1662.

Per eundem Vic.

If in the Lords Court, then thus:

Ebor. ſs. *Viſus Franc. pleg. cum Curia* I. N. *generoſi dominique ejuſdem ibidem, tent. die Mercurii, &c.*

Per A. B. *Seneſchallum.*

Then cauſe the Bailiff to make three Proclamations repeating them after the Steward in this manner.

Proclamation.

ALL manner of perſons who were ſummoned to appear here this day, to ſerve our Soveraign Lord the King and the Sheriffe, (*or the Lord of the Mannor*, for his Court now holden, draw near and give your attendance, and every one of you anſwer to his name, as he ſhall be called, upon paine and peril that may fall thereon.

After all are called, and thoſe that are abſent be marked to be

amercied, then the Steward shall cause the Bailiff again to make other three Proclamations, *viz* Oyes, &c. causing the Bailiff to say:

Proclamation.

IF any man will be *Essoyned*, come into Court and you shall be heard, and all such persons as were *Essoyned* the last Court let them come in now and warrant their *Essoyns*, otherwise they will be *amerced*. And if any desire to be *essoyned* by the *Tything-man*, or other neighbours, then for the first Court they may be essoyned.

The *Essoyn* must be entred in this manner:

A. B. *per* C. D. *essoniatur de communi, &c.*

INquire if there be any tenant in the *Manner* that hath any action or cause of action, since the last Court day, let him come in his plaint *sedente Curia*, *viz.* the Court sitting, and it shall be entred. *Inquiries.*

Inquire if there be any Precepts, attachments, or distresses depending in the Court rolls, call them openly in the Court, and know, if the Bayliff have executed them.

Also if there be any old Plaints depending in the Court 8 days before this Court holden, cause the parties to be called, before the inquest be charged.

Then impannel the *Inquest*, commanding the foreman to lay his hand upon the book, swearing him as follows.

You shall swear, that you shall diligently inquire, and true presentment make of all such things as you shall be charged with, concerning our Soveraign Lord the King, (or the Lords Court of the Manner) you shall well and truly keep his Majesties Counsel, your fellows and your own: you shall not conceal nor hide any thing for favour, fear, promise, or affection you bear to any person or persons, or present any thing for hatred or malice you bear to any man: but you shall present and tell the truth, according as things may or shall come to your knowledg by information, or otherwise: making a true presentment thereof without concealment: so help you God, *&c.* *The Oath of the fore-man of the Jury.*

After the fore-man is particularly sworn, cause four (at once)

once) of the Inquest to lay their right hands together on the Book, swearing them in this manner.

The oath of the rest of the Inquest.

The same oath which *A. B.* your fore-man on his behalf hath made, you and every of you shall well and truly keep on your behalfs: So help you God.

Swearing the rest accordingly.

After they are all sworn, cause the Bailiff to number them as the Steward doth read them.

Then command the Bayliff to make Proclamation, saying after the Steward.

Proclamation.

YOu good men that are impannelled to enquire for our Lord the King, and for the Lord of this Court or Law day, draw near and hear your charge, all the rest keeping silence whilest the Charge is in reading, upon pain and peril that shall fall thereon.

Before the charge gather the *Common fine*, which the tenants do pay every *Leet* or Law day, according to the custom of the Mannor.

The Exhortation before the Charge.

My Masters,

YOu of the Jury, the charge which you by oath have promised to observe, toucheth, and concerneth divers good Laws and Statutes instituted and made for the preservation of the publick Peace, and also for the private tranquility of every one of you, and your Posterities, which maketh the Sheriff (*or the Lord of this Franchise*) considering and wishing your security, and desiring likewise good orders to be observed and kept amongst you, that right and equity may be administred to every of you, hath therefore caused his Majesties *Leet* to be summoned and kept here this day; I will therefore, by your favour, before I enter upon the principals of

your charge, declare unto you, by what authority you are ought hither, and wherein you are obliged to observe.

The causes hereof are two.

1. The first is, for that his Majesty and royal predecessors, e given and granted unto the Sheriffs (*or Lord of this annor*) authority and power to keep a *Leet*, or Law day, ce in the year, at which *Leet*, or Law-day, all the *Headroughs*, *Tithingmen*, and *Jurors*, and all other persons t are resident or inhabiting within the Jurisdiction of this , being above the age of twelve years, and under the age sixty, are bound by the Laws of the Kingdome to appear: e intent that the Laws and Statutes may be there publiand declared, so that knowing the dangers of the not ving them, they may avoid divers inconveniences, which erwise would have much prejudiced them: and further to uire of the breakers of the same: and present them, that offenders may receive condign punishment.

The fother cause or authority is, for that you being the e lords tenans, are bound by reason of your tenure at the rt's *Court Baron*, when it shall happen to be kept accordto law, that is to say, at every three weeks end, (*or acding as the custom is*) and being here by these two authoes, you are bound to serve in all such things, as you a le- lly and joyntly charged withall, as well concerning the Kings t, as the Lords *Court Baron*.

Now to the intent that you may have better cognizance of roath, I think it convenient (with your patience) to insist le upon it.

What things are to be considered by a Jury in swearing.

IN swearing three things are principally to be considered.

1. That you swear, to seclude all favour and affection to parties, not fearing the rich, nor pitying the poor, not sidering the simplicity of any person, nor the smallness of *The first consideration.*

of the offence, but having an affection to truth before your eyes, declare that which is truth to your knowledge, and no further.

The second consideration.

The second is, you must swear in righteousness, *viz.* for the very zeal and desire you have in declaring the truth, *for the executing of justice*, for the observing of Covenants, honest promises, Statutes, Laws, and good Customs, and having this respect in doing and performing these things, you do that which tends to the glory of God, the honour of the King, the preservation of the People and Common-wealth: which kind of swearing is the Mandate of the Almighty. *Thou shalt fear the Lord thy God and serve him, and shalt swear by his Name.* That is, we must only serve and fear him, acknowledging his holy Name, which is done by a legal swearing. It is also commanded in many places of divine Writ, but conditionally, (to wit) we must swear in truth, in Judgment and righteousness, &c.

Deut. c. 6.

The third consideration.

3. In swearing, and taking an *Oath*, you must do it with Judgment, not rashly nor unadvisedly, but soberly, and with caution, considering what an oath is, which, in brief, I will declare to you.

What an Oath is.

An *Oath* is, the recording or calling to witness the Name of God; to confirm the truth of that we say, and which is, according to the testimony of St. *Paul An oath for confirmation is among men an end of strife.* For in ambiguous and obscure matters, where the knowledge of men is brittle and faileth, we betake our selves to God, that he which is the only Truth may give a Testimony unto the Truth, and he that useth God for a Witness, doth also call for revenge of perjury at his hands, if he deceive and speak not the truth: Now, at the imposition of your hands upon the Book, you sweare, truly to enquire and make a true presentment of these things wherewith you are charged, and not to let from declaring the truth, either for favour, fear, affection, or envy of any person: consider, that in this Book is recorded God's eternal verity, whereby we have remission of *errors* and offences and an enjoyment of eternal *Salvation*. I am confident of your knowledge of the plagues and threats (in the *Gospel*) to the obstinate, and perjured, bearers of false and unjust testimony, condemners of innocent and guiltless persons, so that if you voluntarily perjure your selves, you assuredly

Hebr. cap. 6. v. 16, 17.

lutely deny God, his mercy, truth, and the merits of our *Saviour*, betaking your selves, and adhering to that Destroyer of mankinde, the *Devil*, the author of all perjury and perfidiousness: and by forswearing and forsaking the truth, you forsake *Christ*, the light and truth it self. And although that perjury doth escape sometimes unespied, and unpunished, and be kept secret between some of you and others, yet your hearts will judge and repute one another false, and be suspicious of each others actions. But God (*that faithful one of Israel*) will not deny himself, neither will he suffer the profanation of his *Name* to go unpunished; when at the last day the secrets of all mens hearts shall be apparent, then the truth and your consciences shall be your accusers, and *Christ* the righteous Judg shall condemn you to eternal death and damnation. Which sin of *Perjury* the Most High by his Prophet hath threatned to punish. Thus referring this to your serious considerations, and not to trouble you with prolixities, *Verbum sat sapienti, a word's enough to the wise*, I will proceed and declare to you the Articles of your charge.

The

The Charge of the Court.

YOu must understand, That *High Treasons*, *petty treasons*, and *Felonies*, which are against our Soveraign Lord the King, are to be enquired of, and presented to this Court; but not punishable here, the which offences you must set down in writing, indented and sealed, the one part to remain with the *Steward*, the other with the *Jury*, and the same must be delivered to the Justices of the next *Assizes* holden within the *County*.

The Charge of the Court-Leet.

High-Treason.

1. You shall first enquire of *High-treasons*, as if there be any among you that do compass, imagine, or intend the death of the King, Queen, or their children, or of their consenters; or to levy war against his Majesty, or be adherent to his enemies.

2. If any counterfeit the *great seal of England*, or money of this Nation, or do clip, wash, or round the same.

Petty-Treason.

3. If a *Servant* kill his *Master* or *Mistresse*; or if a *woman* kill her *husband*, it is petty treason, and here inquirable.

Judgment.

Death, *and forfeiture of all their goods, and chattels to the King, as well real as personal, moveable and unmoveable, corn growing, and all their debts due to them; &c. all such goods and chattles, &c. as they had at the time of their attainder.*

Death, *and loss of goods; but of Lands during life only, and no corruption of blood, nor forfeiture of* Dower.

Death, *the* Escheat *hereof appertains to the* Lord *of the* Fee, *for such treasons touch not his Majesty himself.*

4. If

Charge of the Leet.	Judgment.	
4. If one kill another in his own defence, or by accident, it is here to be enquired of as blood-shed. *& 6 Stamf.* 15. *a.*	*Loss of goods in both, and charter of pardon must be purchased for it.* Stat. *of* Glouc. cap. 9.	*Felony.*
5. If any man ravish a Woman, whether Wife, Widow, or Maid, though she doth afterwards *assent*, it is here enquirable as Trespass. And their Ayders and abettors are to be enquired of.	Death, *and the loss of Goods and Lands, the benefit of Clergy is taken away, by the Stat. of* 18. Eliz. *cap.* 6. *The Ayders and abettors shall receive the like punishment as well as he that committed the fact.*	*Rape.*
6. *Burglary* are those, who in the time of peace, or in the night time with a felonious intent to rob or kill, do break any houses, Churches, walls or gates, it is here inquirable. *Stamf.* fo. 30. *b.*	*Death, and loss of lands and goods, and so shall their accessary.*	*Burglary.*
7. *Petty Larceny*, is the felonious intent of taking of any thing under the value of twelve pence, as, *Capons, pigs, Hens*, and such like, or clothes off hedges, and is here enquirable.	*The punishment is corporal, as* whipping, *and loss of goods, if they have any, for the Law suffers no offence to escape unpunished.*	*Petty-Larceny.*
8. *Putting out of eys, cutting out of tongues*, or disfiguring any member, to the intent they should not see nor speak, is here inquirable, as Scodded.	*Judgment of death, and loss of lands and goods,* 5 H. 7.	*Phisnomy defaced.*

9. *Mispri-*

Charge of the Leet.

Judgment.

Misprision of Treason.

9. *Misprision of Treason*, is, if any know of Treason, and concealeth it four and twenty hours, you are to enquire of it.

Loss of goods and chattels for ever, of lands during life, and perpetual imprisonment, no bail being admitted.

Sorcerers and Conjurers, Witches.

10. You are to enquire of *Conjurers* and *Witches*, and such as practice Diabolical arts or any *Inchantments*, whereby any person shall be killed, destroyed, or consumed, it is *Felony* in them, their abettors and concealers.

Death, *grounded upon the Law of* Moses, *Exod.* 22. 18. *& Levit.* 20. 27. *and loss both of lands and goods*, 5 Eliz.

Some of our Pulpit temporizers *would make* Astrology (*that sublime science*) *one of the number; but the* Law *is not guilty of their ignorance.*

Sacriledge.

11. The taking away of Ornaments feloniously out of Churches or Chappels, is here inquirable as *Felons.*

Death, *no benefit of Clergy*, *Frustra petit auxilium Ecclesiæ, qui peccat contra Ecclesiam.*

Taking of Doves, young Pigeons, Gos-hawks, fish, Cignets, Swans, Peacocks, domestick Deer, and Robbery.

12. The felonious taking of *Doves* in Dove-houses, yong pigeons, Gos-hawkes out of their nests, taking of Fish out of ponds, stews or trunks, (but in a common River otherwise) or taking *Cignets*, Swans marked, Peacocks, or any domestick Deer, knowing it to be so, and setting upon one in the high-way, though he take but the value of a penny is *Felony*, and are here inquirable.

Death, *with the loss of lands, goods, and chattels, and the like to their accessaries.* 18 *H.* 8. *cap.* 2. *Coke* 3 *Inst.* 107.

Burning of houses or barnes.

13. If any one feloniously burn any dwelling house, or barns, or stacks, or mowes

Death, *and loss of goods and lands.*

Charge of the Leet.	Jdugment.	
Corn in the night-season, is felony at the common-law, and by you to be inquired of.		
14. You are to enquire if any one procure or command another to commit the *felony*, though he be not present when it is perpetrated, he is said to be an accessary before the fact; or if any receive or aid a *Felon*, having knowledg of the fact which he committed, he is an accessary after the fact, *Stamf.* 40.	*The judgment is the same as against the felon, according to the merit of the fact.*	*Accessaries*
15. If any be arested for felony, or any other crime, and afterwards the party in whose custody he is, tollerates him to go at large, this is a voluntary escape, and inquirable.	*It shall be djudged against him that suffered the escape, as if he were the offender,* Stamf. *fo.* 33.	*Escape voluntary.*
16. If one be arrested for felony, and escapeth, contrary to the will of the arrester, and is not followed with fresh pursuit, nor taken before the pursuer loseth sight of him: this is inquirable.	*Though he be afterwards taken, yet is it finable according to the quality of the offence.*	*Escape negligent.*
17. If any *rescue* and set at liberty any person apprehended, and arrested for felony, it is felony in the Rescuer, and here inquirable, 1 *H.* 7. 9.	*The same judgment is as in a voluntary escape.*	*Rescue.*

18. *These things mentioned in this first part of the Charge, are here to be enquired of and presented, but not punishable here, but are to be certified by the* Steward *to the* Justices *of the Peace, at the* Sessions *next ensuing. But the matters contained in the subsequent part of the* Charge, *are here in*

this

this Leet to be enquired of, presented and punished, but not certified, as is the part preceding. And these are grounded upon the Common and Statute Laws of this Kingdome.

Charge of the Leet.

Judgment.

Constables Tything-men.

19. It behoveth you to enquire, if the *Constables* and *Tything-men* have not been remiss in executing their office upon *Vagabonds*, *Rogues* and *sturdy-beggars*, that have com'n within their Liberty and charge.

You ought also to enquire of those that sustain and feed them.

For every such neglect or default they ought to forfeit 20 s.

The penalty is 10 s. for every time they give alms to such.

Stocks.

20. You shall enquire if there be in every *Tithing* a pair of good and sufficient *Stocks* according to the Stat. for the severe punishing of idle persons.

If there be not, the Tithing loseth 5 l.

Hue and Cry.

21. Whether *Hue* and *Cry* after Theeves and Robbers hath been duly pursued, lyes next in your way, to enquire of, presenting them that made default.

The penalty or forfeiture of such default is 5 l.

Common Nusance.

22. All *Purprestures* are here enquirable, which are either in *eligendo*, or *destruendo*, either in setting up, or casting down any thing which may tend to a publique annoyance, as in levying of Ditches or Hedges, or by making or filling up of Ditches, or if walls, houses, or pales be made and ere-

The party offending for every time so doing forfeiteth 20 s. 32 H. 8 c. 17.

Stocks

Charge of the Leet.

Judgment.

ed, or thrown down, or any ys or paths opened, or ſtop- to the dammage of the ople, or if any waters be pped or diverted out of ir right courſe; or if the mmon Rivers or watering- ces for Beaſts be corrupted annoyed with Hemp, ax, and ſuch like; or if y encroachment be upon the ings *High-way*, or any ſance or unwholeſome thing caſt into the ſame.

23. Inquiry is to be made the defect of *Bridges* or *auſways* decayed or broken own, and who ought to re- ir them.

The penalty is according to the diſcretion of the Jury upon view.

Bridges decayed.

24. Inquiry alſo is to be ade, if *Common Pounds* e good and cloſe to retain ch diſtreſs as ſhall be rought to them, until they e delivered thence by order Law, and to preſent ſuch ought to keep them in ſuch der if they be taken.

This is alſo referred to the Juries diſcretion.

Common-Pounds.

25. And foraſmuch as *High-wayes* (eſpecially in inter) are very trouble- ome to travel in, it was en- cted by the 1. 2 *Ph. M. c.* 8. That the *Conſtables* and *Church-wardens* of every Pa- ih within this Common- ealth ſhould yearly upon *Tueſday* or *Wedneſday* in

Every Surveyor neglecting his office, and making default, forfeits 20 s.

Surveyors of high-wayes.

Charge of the Leet. Judgment.

Eaſter-week aſſemble a number of the Pariſhioners, and elect two honeſt men of them to be *Survyors* of the High-ways for one year, and that they ſhall have authority to direct the perſons that ſhall be appointed for the mending and repairing of them, according to their diſcretion, faithfully executing their office.

Every perſon for every *Plowland* in tillage or paſture within the Pariſh, and every perſon there keeping a draught or plough, ſhall ſend every day (that the ways are in mending) one Waine or Cart, with all neceſſaries convenient to carry things, and alſo two able able men with the ſame.

The penalty for every draught making default, 20 s.

Every other Houſholder, Cottager, and Labourer, not being an hired ſervant by the year, ſhall by themſeves, or one ſufficient Labourer, upon every of the ſaid dayes work there.

The penalty for every making default every day 8 d.

Ditches, hedges, and high-ways kept and ſcoured.

26. You ſhall enquire if any Heys, Fences, Dikes or Hedges, next adjoyning on every ſide, to any High or common wayes, be not from time to time ditched, ſcoured, repaired, and kept, and all trees and buſhes growing in the High-wayes, be cut

Every perſon not ſo doing forfeiteth 20 s. 18 Eliz.

down

Charge of the Leet.	Judgment.	
wn by the owners of the ound or ſoyl, whereby the ys are opened, and the ople may have a more eaſy ſſage.		
17. You ſhall further en-ire, if any ancient bounds, Land-marks be withdrawn taken away, ſuch as diſtin-ith or divide *Hundreds, Pa-ſhes, Tythings, Commons, mmon meadows, and Com-n-fields*, to avoid confu-n, and conſequently diſſen-n. 18 *Eliz.* 2.	*Fined according to the diſcretion of the Jury.*	*Boundarys.*
18. you ſhall further en-ire, if any common break-s of hedges or fences, by hich their neighbours round is made ſubject to e incurſions of Cattel, which e the grounds of many acti-s of Treſpaſs, to the di-rbance of the peace of the ingdom.	*Such offenders are to be ſtocked and whipped.*	*Hedg-breakers.*
19. You ſhall alſo en-ire of the *breach of any mmon Pound* to take away ſtreſs out of it, though the ſtreſs be without cauſe. Or any ſhall reſcue, or take way by force any cattel, hich, is diſtrained for any nt, amerciament or other auſe, before it be *in cuſto-a legis*, in the cuſtody of he Law, or impounded, it preſentable.	*Fineable according to the diſcretion of the Jury.*	*Pound-breach.*
	Or a Writ de parco fracto, lyeth againſt him at Common Law. F. N. B. 139.	

Charge of the Leet.

Blood-shed

30. You shall also enquire, if any assaults be committed, whereby bloodshed ensueth to the disturbance of the people of this Kingdome which are here inquirable. 1 *R.* 3. fo. 1.

Rescous.

31. You shall further enquire if any *Rescous* were committed upon the *Sheriff* or his *Bailiffs* in disturbance of them, from the taking and detaining any person arrested.

Common-Barretors.

32. You shall enquire if there be within the precincts of this Leet, any *Common-Barretors*, such as are common incendiaries of strife, and discord amongst their neighbours, and are ever fishing in troubled waters, they are of both sexes, *scoulds*, *brawlers*, *inventors*, and *dispersers* of *calumnies*, and reports, whereby discord and inquietude ariseth in the Country.

Alehouse-keepers.

33. You shall inquire if any *Ale-house keeper*, &c. have permitted any Inhabitant or Townsman (except labourers and handicrafts men, or persons invited by Travellers) to continue tipling or drinking in any such house.

34. You shall enquire if

Judgment.

The fine for the offence according to the discretion the Jury, but commonly it 3 s. 4 d.

An action lyeth against offender at the comm Law.

Such persons must giv Sureties for their good b haviour, being disturbers o the peace.

The pain or forfeiture the Alehouse-keeper, for ev such offence (to the use of poor of the Parish) 10 s.

He that is convict there

Charge of the Leet.

Judgment.

y buy, or cauſe to be ought any victual, or o- er thing, coming to- ards any Fair or Market be ſold in the ſame, or all make any bargain, con- act, or promiſe, for the aving or buying the ſame, efore it ſhall be in the Mar- et, &c. ſuch ſhall be adjudg- d a *Foreſtaller.*

is for the firſt time to be impriſoned for 2 months, and the loſs of the value thing ſold. *Foreſtaller*

The ſecond time impriſoned by the ſpace of half a year, and ſhall looſe the double value of the goods, &c.

The 3d time during his Majeſties pleaſure, and judgment of the Pillory, *forfeiting all his goods and chattels. See* Stat. 5 E 6. cap. 14.

35. You ſhall enquire if y *regrate* any corn, but- r, cheeſe, or other dead r quick Victuals whatſo- ver, that ſhall come to ny Fair or Market to be ld, and doth ſell the ſame gain in any Fair or Mar- et, holden in the ſame ace, or within four miles hereof, ſhall be judged a *Regrator.*

The judgment of a Foreſtaller. *Regrator.*

36. You ſhall enquire if y do ingroſs and get into eir hands, or promiſe ta- ing, (unleſs it be by *de- iſe*, *grant*, or *leaſe* of Land) any Corn growing in e Fields or otherwiſe, but- r, cheeſe, or other Victual, the intent to ſell it again, hall be reputed an illegal *In- roſſer.*

The ſame judgment of a Foreſtaller and Regrator. *Ingroſſer.*

37. You ſhall enquire if

For the firſt, ſecond, and

Charge of the Leet.		Judgment.
Assize of bread.	any *Baker* shall make and put to sale any bread which is not of good and sufficient weight, and assize, according to the rate and prices of corn and grain in the Markets adjoyning, or such as is not wholesome nourishment for *Man.* And that he set his own *signet* upon every loaf of bread that he vends, to the end that if it want weight, it may be known in whom the fault lyes.	*third time* he *shall* be amerced *according to the merit of the fault, and shall from time to time lose his bread found deficient in weight.* *But if he transgress the fourth time, then must he in the open Fair or Market stand upon the* Pillory.
Brewers.	38. You shall likewise enquire if any *Brewers* or *Tiplers* do not keep and observe the *Assize* of *Ale* and *Beer*, and that it be made healthful for mans body, not setting the same to sale till it be tasted by the *Officer* (called the *Ale-taster*) on that behalf appointed, according to the Laws and Statutes of this *Kingdome*, 5 *H.* 4. 58. *Edw.* 3.	*For the first, second, and third time he shall be amerced.* *But for the fourth offence he shall go to the* Tumbrell.
Victuallers	39. You shall further enquire if any *Victualler*, together with *Poulterers, Cooks, Butchers, Bakers*, or *Brewers*, have conspired or made oath not to sell any Victuals but at certain prices; enquiring likewise of the like conspiracies of *Artificers* and Labourers, to do but certain	*Every such person so doing, being thereof lawfully convicted, shall forfeit for the first offence* 10 l. *within six daies after conviction, or* 20 *dayes imprisonment, having only bread and water for his sustenance.* *For the* 2*d. offence* 20 l. *or else to stand on the pillory.*

Charge of the Leet.	Judgment.
work in a day, and that at certain hours.	*And for the 3d. offence 40 l. or the* pillory, *and to loose one of his* ears, *and ever after to be taken as an infa-*
mous person, and his oath not to be credited in any matters of judgment.	
40. You shall inquire if any *Inne-holders* or *Hostlers*, sell their horse-bread, hay, oats, beans, peaſe, provender, and all kind of victual, both for man and beast, for reasonable profit, having respect to the prices in the market.	*For the first offence to be fined according to the quantity of the offence.* *The 2d. conviction, imprisonment for one moneth without bail.* *The third to stand on the* pillory. *And the 4th. after judgment of the* pillory *given, he shall be fore-judged from keeping any Inne again.* *Inne-holders.*
41. You shall enquire if any *Butchers* do sell any manner of corrupt victuals, or any contagious fleſh, that dyeth of any Murrain or any other diſeaſe, or kill and sell the fleſh of any *Bull* unbaited, or do puffe and blow up meat with their breath, whereby it proves deceitful and unwholsome.	*Fineable.* *Butchers.*
He shall not kill any *Calf* to sell, being under the age of five weeks.	*The forfeiture for every Calf ſo killed and ſold, is 3 s. 4 d.*
Neither shall he use the craft or myſtery of a *Tanner*, during the time he is a *Butcher*.	For *every day*, 6 s. 8 d.
42. You shall like wiſe en-	

Charge of the Leet.

False weights and measures.

quire if any keep and use any false weights and measures of bushells, gallons, ells, yards, or false weights, ballances, or pounds; or if any use double weights, the greater to buy with, the lesser to sell with, to deceive the Nation.

And if any sell any Corn, Wine or Ale but by a sealed measure.

Tanners,

43. You shall also inquire if any *Tanner* doth use the mystery of a *Shoo-maker*, *Currier* or *Butcher*.

Or if he *forestall* any *Hides* comming to the Market, or buy any Hides in open Market, unless it be of a Beast killed for ones own private provision.

Or if he have offered to sell any *Leather* before it be well dryed, sorted, and marked, or hath tann'd any sheeps skins, or if he put his leather into any warm *Woozes*.

Curriers.

44. You shall inquire if any *Currier* doth exercise the mystery of a *Tanner* or *Shoo-maker*, during the time he shall exercise the trade of a *Currier*, or if he shall curry any hide or skin

Judgment.

To suffer imprisonment *untill he hath made fine to the* King *for his offence.*

For the first offence 6*s.* 8*d.*
The second offence 13*s.* 4*d.*
The third offence 20*s.* *to be set on the pillory, and the measure not sealed to be broken.*

The pain is to lose all the Hides or skins so wrought, or the value thereof.

For every Hide so bought he forfeits 6*s.* 8*d.*

For every offence 10*l.* *and to stand on the Pillory three several Market dayes.*

To forfeit for every hide or skin 6*s.* 8*d.* *and the value of every hide or skin spoyled by his workmanship.*

(ex-

Charge of the Leet.

Judgment.

cept it be perfectly tann'd)
ge not thorowly dry,
ſhall burn or ſcald any
e or leather in the cur-
ng.

44. You ſhall further en-
re if any *Shoo-maker* do
e any boots, ſhooes, ſlip-
s, &c. to be made of any
ather, but ſuch as is well
d truly tanned, curryed,
d ſubſtantially ſowed.

45. You ſhall enquire if
y *ſearcher* and *ſealer* of
ather do refuſe with con-
nient ſpeed to ſeal any law-
l leather.

Or if he receive any *bribe*,
exact any *fee* for the exe-
tion of his office except
at is limited by the Sta-
te.)

47. You ſhall enquire if
y keep and maintain any
common-houſe, *alley*, or place
bowling, *carding*, *dicing*,
any other game prohibited
y any Statute, or any other
legal game, hereafter to be
found out or invented.

Every perſon that is found
laying in the ſaid places or
houſes, ſhall be by you en-
quired after.

All *Conſtables*, *Tything-
men*, *Bayliffs*, &c. ought to
ſearch once every moneth for
unlawful gam[illegible] as well wi[illegible]

The penalty for every pair of ſhoos, boots, &c. made or ſold otherwiſe, 3 s. 4 d and the full value of the ſame. — *Shoo-makers.*

The penalty for every ſuch offence is 40 s. — *Searchers and ſealers of leather.*

For every ſuch bribe or fee 20 s.

For every day 40 s. — *Unlawful games.*

Forfeit for every time 6 s. 8 d.

In default thereof, they forfeit, for every moneths neglect 40 s.

in

Charge of the Leet.	Judgment.
in the *Franchiſe* as without.	
Shooters in hand-guns, Croſs-bows, &c. 48. You ſhall enquire, of ſuch as ſhoot either in *hand-guns* or *Piſtols*, *croſs-bows* or *ſtone bows*; for all are prohibited to ſhoot in them, (except ſuch as can diſpend 100 *l. per annum*) at any *Hern*, *Duck*, *Mallard*, *Pheſant*, *Partridge*, *Pigeon*, *Heathcock*, *Teal*, or *Wigeon*.	*Upon pain of* 10 *l. for every time he ſhoots.*
Or, (1 *Jac.*) he that ſhoots at any of the ſaid fowles, or at any *Deer*, or *Hare*, and cannot diſpend ten pounds *per annum* in land, nor is worth two hundred pounds in perſonal eſtate.	*Forfeits for every ſhot* 20 *s. to the uſe of the poor of the pariſh, if he neither will nor can pay ſo much, then* 2 *moneths impriſonment, if he can diſpend* 1 *l. a year or above, then the pain is* 40 *s. and finding ſufficient ſureties that he ſhall not commit the like offence again.*
Fry of fiſh. 49. You ſhall further enquire of ſuch as deſtroy any *fry of fiſh*, in the waters, ſtreams or rivers, within the precincts of this *Leet* with any manner of net, or any deviſe or engine, (angling excepted.)	*The penalty is for every time* 20 *s. The fiſh taken, and the nets, &c.*
Pheſant & Partridges 50. You ſhall alſo enquire if any have deſtroyed any *Pheſants* or *Partridges*, with any nets or other deviſes in the night time.	*For every Pheſant* 20 *s. and every Partridge* 10 *s. to be paid within* 20 *. daies after conviction, or one moneths impriſonment.*
Hawking or hunting with ſpaniels, &c. 51. Or if any do hawk or hunt with *ſpanniels*, where corn grows, except it be his own ground.	*The penalty is* 40 *s. to the party vexed.*
52. You ſhall enquire if	

any

Charge of the Leet.

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do deſtroy or kill *hares* tracing in the Snow, with og or otherwiſe.

53. You ſhall likewiſe en- re if any do break any *l, pool,* or other pits, erein the Lord of the *Leet* any fiſh, to the intent deſtroy and ſteal them way.

54. You ſhall enquire of *es-droppers* ſuch as ſtand der walls or windows, by ght or day to hear news, and arry it to others, to make ife and debate amongſt eir neighbours, theſe are ll members of the Com- on-wealth and here inqui- able.

55. You are to enquire if any refuſe to go to *Muſter,* or abſent himſelf without any lawful impediment.

You ſhall enquire if any have put to paſture any *ſto- ed horſes, gelding* or *mare* infected with the ſcab, or other infectious or contagious diſeaſe, into or upon any Common or common fields.

57. You ſhall likewiſe en- quire if *Conſtables* have been diligent in ſeeing the peace kept, and obſerved Watch & Ward, from the day of the *aſcention* untill *Michaelmas* day, every night from the

The penalty to the Lord of the Leet for every Hare is 6 s. 8 d. — *Tracing of hares.*

He ſhall pay to the Lord treble dammages, ſuffer im- priſonment for three moneths, and find ſureties for his good behaviour for ſeven years. — *Breaking of ponds.*

Such offenders are puniſh- able according to the diſcre- tion of the Jury. — *Eves-drop- pers.*

The penalty is 40 s. and 10. dayes impriſonment. — *Muſters.*

The Penalty to the Lord of the Leet (for every ſuch horſe ſo infected) is 10 s. — *Horſes in- fected.*

For ſuch neglect the Con- ſtables are fineable according to the diſcretion of the Jury. — *Watch and Ward.*

ſetting

Charge of the Leet.	Judgment.
setting of the Sun, untill its rising, 13 E. 1. c. 4. and if if they have been remiss in any thing touching their oath it is presentable.	
[Enquire the like of all the rest of the Officers, according to the places they are in, as the *tything-man*, *Surveyors* of the High-was, *Searchers* and *Sealers* of Lether, &c.]	
Mortmain. 58. You shall also enquire if any man hath given any Lands in *Mortmain, viz.* to any *Corporations*, or *Fraternity*, *Religious houses*, or *Religious persons*, without licence.	*Such gift or devise is void, and the Lord shall have it.*
Treasure trove. 59. You shall also enquire of *treasure trove, viz. treasure found* within the precincts of this *Leet*, either within or above the ground, the hiders not being known to any man.	*It appertains to the Lord of the Leet.*
Waifes, Estrayes, &c. 60. You shall likewise enquire of all *Estrayes* and *waifes*; as, if there be any Horses, Mares, or other cattel, or Swans, that have come within the Jurisdiction, and remained there a year and a day, and not claimed, these are *Estrayes*.	*The Lord may have them by prescription.*
And *Waifes* are cattel stoln, and waved out of the possession of him that stole them, as a thief being pursued with *Hugh and cry* to save himself doth delinquish them, they are called by the *Civilians*, *bona derelicta*.	*These* Waifes *appertain to the King, unless the Lord have them by grant in his* Charter.

But not to charge your patience with prolixities; if there shall be any other matter come to your knowledg, omitted in the charge, and fitting to be presented, you shall enquire and present it with the rest.

Then after the charge is concluded, the Steward shall command the Cryer to make Proclamation, and after Proclamation made three times, the Steward shall say,

If any can inform the *Steward* or this *Inquest*, of any *Treason, petty treason, Felony, petty Larceny, purpresture, breaking of ponds*, or of *Rescouse*, or of any other thing acted against the peace, or of any misdemeanour of any officer or other person here, or of any *waise* or *stray*, *Treasure found*, *Mortmain* or of any other thing here to be enquired of, come into *Court* and you shall be heard.

If any come in, and appear, let him be sworn thus;

The *Evidence* that you shall give to this *Inquest*, shall be the truth, the whole truth, and nothing but the truth; *So help you God, &c.*

Then let the Steward say to the Jury.

Go together, and enquire of the matters of your charge and when you are agreed, I shall be ready to take your presentments.

Then adjourn the Court by Proclamation, until after dinner, in this manner.

All manner of persons that have any more to do at this Court, may for the present time depart, and appear here again at one of the clock in the after noon.

After your return from dinner, call the Court by Proclimation, and after O yes *three times, say,*

All manner of persons that were adjourned over until one of the Clock, or have any thing more to do at this Court, let them

them come into Court and give their attendance, as they will answer the contrary at their peril.

Then take the presentments of the Jury if they be ready with them; otherwise, give them a day to bring them in, adjourn the Court till then. At that day call the Court. And then call the Jury, every man by his name, and if they all appear; take their presentments, and ask them if they be all agreed; if they say *Yes*. Then ask them, if they be content that their presentment shall be altered in form, if they grant it, then take them, read them, and amend the form, if need require; see that they be brought under their hands and seals for the Stewards warrant.

Then discarge the Court with Proclamation, Command the Cryer to say, O yes, three times, and say,

Adjournment. All manner of persons that have appeared and have any thing more to do at this Court-leet holden here this day; Let them come forth and they shall be heard, otherwise they may depart, and are discharged of their attendance, and are to keep their day again upon a new Summons.

Nota. In *Kelloways Reports* fol. 141. There is a custome alledged, that two men within the provost might present the Articles of the Leet; but *Callis in his reading upon the Stat. of Sewers*, doubteth of such presentment, though it hath a Custome to strengthen it.

I shall not need to trouble you with presidents of Presentments, (seeing that they are so copiously performed by *Master Kitching in his Jurisdiction of Courts, and Wilkinson in his office of Sheriffs*) onely with three or four for methods sake.

A Presentment of Petty-Treason.

IMprimis, *Jurat. præd. super sacrum suum dicunt & præsentant, Quod* A. B. *&c. apud* Skipton, *infra Jurisdict. hujus Cur. ut Felo dict. dom. Reg. &c. fecit & cum ja-*

...niavit vigint. argent. pec. monet. voc. shillings, & qua-...agint. argent. pec. monet. voc. half-crowns, false & felo-...ice (liter. patent. dic. dom. Reg. non prius obtent.) contra ...cem dic. dom. Reg. Coron. & dignitatem suam, ac con-...a form. Stat. in hujusmod. casib. edit. & provis.

A Presentment of Felony for burning a house.

Item præsentant quod quidam A. B. &c. gen. (tali die, &c. apud C. infra Jurisdiction. istius curiæ, vi & ...mis, &c. voluntarie & felonice (ex malic. sua præcogitat.) ...emavit & cum igne destruxit mansionem cujusdam E. ... contra pacem, &c. & contra formam Statuti inde edit. ...provis. Ideo præcept. est Balliv. seisire omnia terras & ...ment. bona & catalla sua, ut respondeat pro eis domino ...ius Maner.

A Presentment of a Felon.

Item præsentant quod A. B. de, &c. yeoman (tali die, &c. apud S. infra Jurisdict. hujus Cur. vi & armis, &c. ...ntra pacem Dom. Reg. nunc, &c. Clausum ipsius C. D. ...pud S. prædict. fregit & intravit & un. seric. tunic. (vo-...t. Tabby) coloris cinerei de bonis & catallis ipsius C. D. ...tunc & ibid. invent. felonice cepit & asportavit. Id. ...præcept. est Balliv. &c.

A Presentment of an Accessary.

Item præsentant quod A. B. de S. præd. gen. tali die, &c. apud S. præd. infra Jurisdict. hujus Cur. consultavit, pro-

vocavit

vocavit, procuravit incitavit & abbettavit quendam C. *D. &c. unam Vaccam nigri coloris, &c. de Catall. ejusdam, &c. prec. &c. adtunc & ibid. invent. felonice furare capere & abducere, virtute quorum concilii provocationis, procurationis, incitationis & abbettacionis prædictus, &c. eandem nigram vaccam (tali die, & anno &c.) felonice furavit, cepit, & abduxit, &c.*

The Oath of the Steward.

YOu shall swear that you well and truly shall serve the Lord of this Mannor of S. in the office of Steward and truly to see all plaints, actions, process and matters in the Courts to be holden before the Lord of this Mannor, and by you or your sufficient Deputy, according to the custome and Liberties of the said Mannor, to be entred and recorded as they ought to be, after the best of your cunning, skill, and power, taking for the same your due fees, and the perquisites issues, profits, and amerciaments of the same Courts; you shall justly and truly write, and yearly extract, for the levying and gathering thereof; and you shall truly and diligently do and accomplish all other things appertaining to your said office after the best of your knowledge, as near as Gods grace shall direct you. *So help you God*, &c.

The Oath of the Bailiffe.

YOu shall swear, that you shall well and truly serve our Soveraign Lord the King, and the Lord of this *Leet* in the office of *Bailiff* for this year ensuing, and shall well and truly collect all rents, Revenues and other annual profits, as shall be chargeable, and issuing out to you. And of that you shall make and give a lawful account at the end of the same year,

ar, and in every other thing appertaining to your office, ll and truly to discharge in your year ensuing. *So help you ds, &c.*

The oath of the Constable.

YOu shall swear, that you well and truly shall serve our Soveraign Lord the King, in the office of *Constable-ip*, and as *Constable* of this Town of S. for and during the ce of one whole year now next ensuing; you shall endea-ur your self to the utmost of your power, to see the *Pub-k Peace* kept, and *Watch* and *Ward* observed and kept in is Town, as hath been accustomed, and as it ought to be: ewise you shall endeavour your self to learn end under-nd the contents of the Statute of *Wincheſter*, and dive s ther Laws and Statutes of this Nation made for the punish-ent of *Rogues, Vagabonds*, and *ſturdy beggars*, haunting d resorting within the precinct of your office, and present e offenders accordingly. Also you shall present all such per-s, as do or shall play, at any unlawful games, according the *Statute* in that case made and provided. You shall al. have regard for the maintenance of *Artillery* within your d office, and that you shall do and accomplish to the utmost your power, So help you God, &c.

The *Tything-man* or *petty Constables* Oath is after the me manner *mutatis mutandis*; only the *Tything-man* is orn to attend on the *Constable* (if he be required) when he ll execute his office.

Of the Affeerer, and his Oath.

BUt, first let us inquire what he is, and from whence his name is derived. *Minsh.* saith, that *Affeerer* cometh

of the old French word *Affeur'er*, which is, to *tax* or *fine*, and in Latine they are called *Affidati*, as it were men put in truſt and appointed to this Office, which do affirm upon their Oaths, what penalty they think in their conſcience, the offenders have deſerved: ſo that they may mulct ſuch as have committed any fault, which is arbitrably puniſhable, and for which no expreſs penalty is preſcribed by Statute. The oath is a followeth.

You and either of you ſhall ſwear, that you will truly and indifferently tax, aſſeſs and affeer all ſuch *Amerciaments* as are preſented at this Court; wherein you ſhall ſpare no man for love, favour, affection or corruption, or raiſe nor inhance upon any man (of malice) more grievous amercements, then ſhall be thought reaſonable, according to the quality of the offence, and the faults committed, and not otherwiſe. *So help you God, &c.*

The Oath of the Ale-taſter.

YOu ſhall well and truly ſwear that you ſhall well and truly ſerve our Soveraign Lord the King, and the Lord of this Leet, in the office of *Ale-taſter*, or *Aſſizor* of this Liberty or Hundred for this year to come; you ſhall duly and truly ſee from time to time, that the bread to be ſold be duly weighed, and that the ſame to continue ſuch weight, according to the prices of wheat, as by the Statute in that behalf is provided: likewiſe you ſhall have diligent care, during the time of your being in office, to all the *Brewers* and *Tiplers* within your office, that they and every of them, do make good and wholeſome *Ale* and *Beer* for mans body, and that the ſame be not ſold before it be aſſayed by you, and then to be ſold agreeable to the prices limited and appointed by the *Juſtices of Peace*; and all faults committed or done by the *Bakers*, *Brewers* or *Tiplers*, or by any of them you ſhall make known, and preſent the ſame at this Court, whereby due and condign puniſhment may be inflicted upon them for their offences accordingly, and in every other

king, you shall well and truly behave your self in the said office, for this year to come, *So help you God, &c.*

Of the Hayward, Beadle, or Greve, and his Oath.

Hayward, hath its derivation from the French word *Haye*, i. e. *sepes*, a hedge, and *Garde*, i. e. *custos*, a keeper of the hedges. With us it signifies, one that keepeth the common Herd of the Town: and yet one part of his office is to look that they break not the hedges of inclosed grounds. He is called by the Latines *Bedellus*. i.e. *oppidi vel civitatis servus.*

You shall swear, that you shall well and truly serve our Soveraign Lord the King, &c. and the Lord of this Leet, in the office of *Hayward, Beadle,* or *Greve,* for this ensuing year, and you shall duly and truly execute all Attachments, and other process to you directed from the Lord or Steward of this Court, and you shall present all pound-breaches which shall be made within your office; and also all chattels, Straies and Waifs, and in every other thing, well and truly hold you in the same office. So help you God, &c.

It is usual with Lords to grant their office of Bayliwick, (taking good securities) in this manner.

A grant of a Bayliwick.

TO all, to whom this present writing shall come. A. B. of C. in the County of Y. sendeth greeting. Know ye, that I the said A. B. in the fidelity, circumspection and diligence of my beloved servant E. F. to me and my posterity hereafter to be done and performed, very much relying con-

and confiding ; Have made, ordained, and by this my pre-
ſent writing conſtituted the ſaid E. F. of Town, Manno
or Lord-ſhip of S. in the ſaid County of Y. Collector an
Receiver of all and ſingular my Rents, Revenues, Fines, A
merciaments, and Eſtreates of Court-Leets, or views o
Frank-pledge there : And of all other profits by reaſon o
the ſaid Court-Leet, or view of *Frank-pledge*, any way ari-
ſing, emergent or coming : to have, hold, exerciſe and occu-
py the ſaid office to the ſaid E. F. by himſelf ſo long as he
ſhall well behave himſelf towards me, and ſhall a true and
juſt account of his Receits make unto me, and the ſame ſhall
well and truly pay and ſatisfy. Taking of me for his yearly
wages 5 l. at the Feaſts, &c. by equal portions, by mine own
hands after his account and full payment at every half year
and the gifts, rewards, and emoluments to the ſame office due
and accuſtomed. In teſtimony whereof, &c.

Curi

CURIA DOMINICALIS:
Vel,
BARONA:
OR,
COURT-BARON.

Of the first Original, and Institution of Mannors, and of this Court.

IF we labour to investigate the Antiquity of *Court-Baron*, we shall finde them as as Antient as *Mannors* themselves; therefore we will inquire what a *Mannor* is, together with the first institution of Mannors.

What a Manner is.

The word *Mannor*, *Manerium est nomen collectivum & generale*, it comprehends Houses, Lands, Gardens, Trees, &c. and hath its *Etimology* (as some derive it) *à Manendo*, and then it taketh its name either from the *Mannor-House* which the Lord maketh his dwelling place, or else *à manendo, quia Dominus ac tenentes in Manerii sui circuitu cohabitant ac manent*: others compute its denomination from the Latin, *Manerium, quasi Manurium*, because it is laboured with handy work by the Lord himself, or which the

L. Dyer.

the Tenants are obliged to manure: or elſe, from the Lands remaining in the Tenants hands, which are likewiſe tilled and manured: others would have its appellation from the French-word, *Manoir*, i. e. *Manſions*, becauſe the Lord remaineth there, and hath his houſe which is called the principal houſe of the *Mannor*, or from the French word *Meſner*, which ſignifies to govern or guide, becauſe the Lord of a Mannor hath the guiding and directing of all his Tenants within the limits of his Juriſdiction, and this holden (by ſome) to be the moſt probable *Etimology*, and moſt conſentaneous to the nature of a Mannor: for a Mannor (*hiſce diebus*) ſignifieth the Juriſdiction and Royalty incorporate, rather than the Land or Scite.

How Mannors were created.

When the priſtine Kings of this Kingdome (who had all the lands of *England* in *Demeſn*) did confer great quantities of land upon ſome great Perſonages with liberty to parcel the land out to other inferiour Tenants, reſerving ſuch duties and ſervices as they thought convenient: Such lands were called *Mannors*; a *Mannor* conſiſting of two parts, *viz.*

1. *Demeſne*,
2. *Services*,

And neither of them can make a *Mannor* without the other: for a Meſſuage or Lands cannot be called *Demeſne* without Tenants belonging to them, to pay Rent and do ſervices: ſo on the other part, though a man have Tenants to pay him Rents, and do him ſervice, and no Meſſuage or lands whereupon to keep his *Court*, and to receive his Rents and ſervices, this cannot be called a *Mannor*, but only a *Signiory ingroſs*, F. N. B. 3. & 8. Likewiſe a *Mannor* muſt be by preſcription, and the ſervices by continuance time out of minde, and therefore a Mannor cannot be created at this day by the Kings Patent, it being an hereditament conſiſting of many real things and incorporated together, before time of memory; then *à multo fortiori*, a ſubject cannot create one; yet may he in ſome ſort enlarge a Mannor by adding ſome ſervices unto it, 9. Aſſ. pl. 24. & *Br. tit. tenure*, 26.

F. N. B. 3. & 8.

Leonards Reports firſt part 33. *Marſh againſt Smith.*

A Cuſtomary Mannor, what it is, and what may be a good Mannor to maintain Copy-holders.

NOw though a *Mannor* by his proper nature ought to conſiſt of

Demeſnes and *Services.*

Yet in ſome caſes, that may be a Mannor, and maintain Copy-holders and a *Court-Baron*, by uſage and Cuſtome, which otherwiſe by Common-Law is no Mannor, nor can be ſo called, &c. As if diverſe do hold lands by Coppy of the Mannor of *Dale*, and ſo have done time out of minde, and the like time there hath been no Free-holders to the ſaid Mannor, although this be no Mannor in his proper nature, yet by uſuage and cuſtom it is a good Mannor to maintain Copy-holders, *Cathrops Readings* 12.

Cuſtomary Mannor, what. Co. 11. 17. *& 18. Sir Henry Nevils caſe.*

And in *Coo.* 11. 17. & 18. Sir *Henry Nevils* caſe, it is clearly reſolved by the whole Court, that there may be a Cuſtomary Mannor, and held by Copy, and that ſuch a Cuſtomary Lord may hold Courts, and grant Copies, and that ſuch a Cuſtomary Mannor may paſs by Surrender and Admittance, and that Fines ſhall be paid upon admittance, as well upon alienation, as upon deſcent, and there may be alſo a Cuſtomary Lord, Meſne, and a Cuſtomary Tenant, as in caſe where the Meſnalty is a Tenancy at will, at the Common Law of a Mannor, and alſo if ſuch a Cuſtomary Mannor be forfeited, the Lord ſhall have the cuſtomes and ſervices as appertainng unto the ſame, and it is there ſaid, that the Mannor of *Aylesham* in the County of *Norff.* is held by Copy.

By what names a Mannor may paſs.

A Mannor may paſs by ſeveral names; as, it may be known by the name of Priory or Chantry, as appeare by the book of 17 E. 3. fo. 8. where a feoſment was made of a Mannor by the name of Knights fee, and this is there held to be good, this having uſually carryed the name of Knights fee, and the ſame may well paſs by this name, either by Fine or by Feoffment; and in another place a Mannor was *cognitum & vocatum* by the name of ſeven yard-land, as well as by the name of Mannor, and paſſed.

17 E. 3. fo. 8. Bolſtrod. 1. part. f. 54. Mic. 8 Jac.

How Court Barons were firſt Inſtituted.

AT the creation of *Mannors*, the King delegated Courts to the Lords, where they might redreſs miſdemeanors within their precincts, and to puniſh offences committed by their Tenants, and to decide and debate controverſies ariſing within their Juriſdiction, and theſe Courts were termed Courts-Baron, as it appears among the Laws of *Edward the Confeſſor*, where it is ſaid, *Barones vero qui ſuam habent curiam de ſuis hominibus, &c.* taking its name of the *Baron* who was Lord of the Mannor, (or according to *Coo. com. Lit. fo.* 58. a. for that properly in the eye of the Law it hath relation to the *Free-holders*, who are Judges of the Court) becauſe in ancient time ſuch perſons were called Barons, and came to the Parliament, and ſate in the *Upper houſe*; but when time had wrought ſuch an alteration; that Mannors fell into the hands of inferiour men, and ſuch as were far unworthy of ſo ſublime a calling: then it grew to a Cuſtom, that none but ſuch as the King would, ſhould come to the *Parliament*; ſuch as the King, for their extraordinary wiſdome or quality thought good to call by Writ, which Writ ran *hac vice tantum*: yet though Lords of Mannors loſt their names of Barons, and were deprived of that dignity, which was inherent to their names, yet their Courts retain

Lamb. fo. 128. et 146 Cambden. Bri. 1216. Britton. f. 274. Mir. c. 1. Sect. 3.

ſtil

the name of *Court-Barons*, because they were originally
ded for such personages as were Barons, neither hath
e been so injurious as to irradicate the whole memory
eir pristine dignity: in their denomination, there are yet
rps of their nobility, for they are still entituled by the name
Lords.

Court Baron cannot be separated from a Mannor.

His *Court-Baron* is the chief Prop and Pillar of a *Man-*
nor, which no sooner faileth, but the *Mannor* is destroyed,
therefore it cannot be separated from the Mannor, 34 *H.*
49. for it is a wealth to a Mannor (the like of a Court of
ender to a Fair, of which more in its proper place) and
granting the principal which is the *Mannor*, the Court
ich is incident to it, passeth without being named, 12 *Eliz.* 12 *Eliz.*
r 288. if a Mannor be granted *cum pertinentiis* the Court *Dyer* 288.
eth, for it is an incident inseparable to the Mannor, and one
not grant his Court, but he may grant the profits of it,
ownlows Rep. Yet though a Court-Baron is incident to a *Brownlows*
Mannor, it must be understood of a Mannor *in facto*, in reali- *r. p.* 175.
and truth, but not to be a *Mannor* only in intendment, and a
er nominal Mannor, *Bolstrod*, 1 *part*, *fol.* 54. *Mich.* 8. *Jac.* *Bolstrod.*
And as a Mannor at this day cannot be derived out of the 1 *part. fo.*
ROWN, therefore *ex consequente*, neither the Court- 54.
ron which is incident to such a Mannor, but a Court-
eet is not incident to a Mannor, but he which hath *Bolstrod.*
Mannor may also have a Court-Leet to be by him held with- 1. *part fo.*
his Mannor, but this ought to be by a special grant from 57.
e King, and not otherwise, and then he may punish offenders,
e which he cannot do in his Court-Baron, he cannot be ou-
ed of his Court-Baron unless he be ousted of his Mannor;
if he have a Mannor, he ought to have such a Court-Baron,
this, (as I have said) is as an incident, and follows the Man-
, as a necessary consequent and adjunct unto the Man-
, and therefore if he have the one (*viz.*) the Mannor, he
all also have the other, (*viz.*) the Court Baron.

what

What parts a Court-Baron doth consist of.

THis *Court-Baron* appertaining to a Manno consisteth of four special parts, *viz.*

1. The Lord.
2. The Steward.
3. The Tenant.
4. The Bayliffe.

It is defined to be an Assembly of these parts together within the same Mannor; and it is likewise duplicate. *viz.*

1. The first is for the taking care, counsel, and inquiry of causes concerning the same Mannor: as for the tryals of title of the land. and the taking and passing of Estates, Surrenders, admittances, and grants, and to see Justice duely executed, and the Acts and Ordinances there done to be recorded in the Roles of the same Court, which Rolls are the evidences of Ordinances, duties and customes, and conveyances between the Lord and the tenants of the same Mannor, and are to be entred by the Steward, or an Officer indifferent between the Lord and his Tenants, and the same Rolls to remain with the Lord, thereby to know his Tenants, his Rents, his Fines, his Customes and his service. And the particular grant of every Copy-hold, to be copyed out of the Rolls, and the copy thereof to be delivered to every particular Tenant, neither can they make any other title to their said tenements, but by their said Copy: and this is called the *Copy holders Court*, and herein the Steward is judge.

2. The other is for the tryal of actions under the summe forty shillings, of the nature of *County-Court*, (of which we have copiously treated in the first part of this work, and therefore here not necessary.) And herein the Free-holders are Judges. But to return to the *Copy-holders Court*.

And herein, the Lord, the Steward, the Freeholders, the Copy-holders, and the Bayliffs of every Mannor, have an intermixt and joynt office, and authority, in some cases, and

purposes: and to other purposes their office is distinct, every of them doth occupy several places, persons, and

Five things necessarily appertaining to a Mannor.

Here are five things necessarily appurtenant to a Mannor and Court-Baron, *viz.*

1. The *Lord* is chief to command and appoint.
2. The *Steward* to direct and record.
3. The *Free holders* to affere and judge.
4. The *Copy-holders* to inform and present.
5. The *Bayliff* to attend, and execute, &c.

And all these united make a perfect execution of Justice, judgment in Court-Barons, and without all these a Court-on cannot be held in his proper nature, in respect of all s appertaining to the perfect jurisdiction of a Court-on. But to make a more particular demonstration of their inct authorities and offices.

1. And first of the *Lord*, as he is chief in place, so in au- *Of the Lord.*
rity, and he officiateth in three several places, viz. the one Chancellor, in cases of equity, the other of a Justice in mat- of right, and the third of himself, in cases proper and par- ular to himself.

2. The *Steward* doth act the part of several persons, viz. *Of the Steward.*
dge and Orderer in cases of *Copy-hold*; and also a Mini- r and Registeer to record and enter things into the Court-ls, and in both these to be indifferent between the Lord and tenants.

3. The *Free holders* do likewise execute two parts, that is *The Free-holders.*
affeere, and judge amerciaments, and also to return and c r judgments.

4. The *Copy-holders* hold two distinct places, viz. to *The Copy-holders.*
form offences committed against the Lord within the Man- r, and to present such things, as shall be given in charge by e Steward.

5. The

The Bayliff 5. The *Bayliff* officiates two parts, *viz.* to execute the pr
ceſs, and mandates of the Court, and alſo to return into t
Court the execution of the ſame proceſs, *& quod ſit ita ju*
ſtus, quod ob vindictam vel cupiditatem non quærat ver
Fleta lib. 2. cap. 73. *tenentes domini, vel aliquos ſibi ſubditos occaſiones injuſt*
per quas deſtrui debeant ſeu graviter amerciari.

The difference betwixt Court-Leet and Court-Baron.

HAving travelled thus far in this beaten way, we will now inquire the difference between Court-Leet and Court-Baron; and here theſe Courts differ from Court-Leets in divers reſpects: the firſt is this, that Court Barons by the Law may be kept once every three weeks, or (as ſome think) as often as it ſhall pleaſe the Lord of the Manner, though for the better eaſe both of Lords and tenants, they are kept but very ſeldome; but a Court-Leet by the Statute of *Magna Charta, cap.* 35. 31 *E.* 3. *cap.* 15. it is to be kept but twice every year, one time within a moneth after *Eaſter*, and another time within a moneth after *Michaelmas*.

Mag. Cha. c. 35. 31 E. 3. cap. 15.

2. Secondly, in this, that Court-Barons may be kept in any place within the Mannor, but a Court-Leet by the ſaid Statute of *Magna Charta*, is to be kept *in certo loco ac determinato* within the precinct.

3. Thirdly, in this, that originally, Court-Barons belonged unto inferior Lords of Mannors, but Court-Leeets belonged unto the King only.

4. Fourthly, in this, that Court-Barons are inſeparably incident to every Mannor, ſo that every Lord of a Mannor may keep a Court-Baron, but few have Leets; for inferiour Lords of Mannors cannot keep *Court-Leets* without ſpecial preſcription, or ſome ſpecial patent from the King.

5. Fifthly,

5. Fifthly, in this, that in Court-Barons the Suitors are Judges; but in Court-Leets the Steward is Judge.

6. Sixthly. in this, that in Court-Barons the Jury consists oft-times of leſs then twelve, in Court-Leets never, becauſe none are impannelled upon the Jury but Free-holders in Court-Barons of the ſame Manor; but in Court-Leets ſtrangers are oftentimes impannelled.

7. Seventhly, in this, that Court-Barons cannot ſubſiſt without two Suitors *ad minimum*, but Court-Leets can well ſubſiſt without any Suitors.

8. Eighthly in this, that Court-Barons inquire of no offences committed againſt the King, but Court-Leets enquire of all offences under High Treaſon committed againſt the State and dignity of the King.

9. In many other reſpects they differ, as that a *Writ of error* lieth upon a Judgment given in a Court-Leet, but not in a Court-Baron.

10. So in a Court-Leet a *capias* lyeth, but in a Court-Baron, inſtead of a *capias*, is uſed an *Attachment* by goods.

11. So in a Court-Baron an action of Debt lyeth for the Lord himſelf, becauſe the Suitors are Judges, but in a Court-Leet the Lord cannot maintain any action for himſelf, becauſe the Steward is judge.

Of the time when, and place where this Court is to be kept.

THe uſual and accuſtomed time is to keep it once every three weeks, and although no Court hath time out of minde been holden within the mannor, yet it is not thereby ex-

Co. l. 4. 26. & 6. 27. Owens rep. f. 35. Mic. 13 & 14 Eliz. Leonards rep. 133. Marsh against Smith. Co. 4. f. 24. Murrel and Smith, and f. 27. Cliftons case.

extinct and loſt, for it is incident to a Mannor of Comm right, *Coo. l.* 4. 26. and 6. 27. d. And to the place wh it is to be kept, it may be kept and holden in any place wit the Mannor, as the County-Court, in any place within County, and Hundred-Court in any place within the Hu dred: for as to every Mannor a Court is requiſite and in dent to it: ſo is it tranſitory throughout the whole Manno and every part of the Demeſnes of the Mannor is capable o Court to be holden there. But if it be holden out of t Mannor it is void, unleſs a Lord being ſeized of two or thre Mannors, and hath uſually, time out of minde, holden at on of his Mannors, Courts for all his ſaid Mannors, there b cuſtome ſuch Courts are ſufficient in Law, though they be no holden within the ſeveral Mannors.

The manner and method of keeping the Court.

B. ff. The Stile of the Court

Cur. Baron. A. B. *Ar. domini Manerii præd. ibid tent. primo die Novemb. Anno, &c. coram* C. D. *Seneſcallo Cur. Manerii præd.*

After you have entred the *Stile* of the Court, command the Bayliffe to make Proclamation, *O yes*, &c. and ſay:

Proclamation.

All manner of perſons that have been ſummoned to appear here this day, or have any thing to do at this Court, draw near and give your attendance.

Or, if any will be *Eſſoined*, or enter any plaints, let them come forth, and they ſhall be heard. Which *Eſſoyn* is thus entred, *viz.*

Eſſoyn.

A. B. *eſſoin. eſt pro ſecta Cur. per* D. C.

And Plaints are entred in this manner.

Plaint.

A. B. *quaritur de* C. D. *de plac. deb. tranſg. Ad damp.* xxx s.

And the proceeds upon plaints are the very ſame as in the *County Court.*

Call

Call the *Free-holders*, and those that make default, let them be amerced in this manner, *viz.*

A. B. *Arm. & C. D. Custumar. tenen. hujus Mann. fecerunt default. Ideo uterque eor. amerciatur, prout patet per eorum capita.* *Amerciament.*

Then enter over their heads thus: *Amerced two pence.*

Then command the Bayliff to call the Jurors.

Jurors.

I. D.		C. D.		B. A.	
R. R.	Jur.	H. I.	Jur.	D. C.	Jur.
S. T.		K. L.		F. E.	
V. W.		M. N.		R. P.	

Then call the Foreman to the Book, and swear him after this manner.

You shall swear that you as *Foreman* of this *Homage*, with the rest of your fellows shall duly enquire, and true presentment make of all such articles and things as shall be given you in charge, and therein you shall spare no man, for love, favour, or affection, nor present any man for malice, hatred, or envy, but according as things here presentable, shall or may come to your knowledge, by information or otherwise: So shall you make there true presentment without concealment, So help you God, &c. *The Foremans oath.*

The Foreman being sworn, call the rest by their names, and swear them by four at a time, in this manner:

The same oath that I. D. *your* Foreman *hath taken before him on his part, you and every one of you shall observe and keep on your parts. So help you God, &c.* *The oath of the rest.*

After the Inquest thus impannelled and sworn, make answer *O yes*, and say:

You good men that are impannelled, draw near, and you, and all others keep silence during the Charge. *Proclamation.*

An

An Exhortation to the Jury.

MY MASTERS:

YOU that be ſworn, before I give you your Charge, think it neceſſary to declare, by what Authority you are commanded hither, and for what cauſe. Chiefly you are appointed to be and appear here, being that you are the Lords Tenants, and are obliged by reaſon thereof to appear at the Lords *Court Baron* when it ſhall be holden, according to the Law and Cuſtome of this Mannor, that is to ſay, at every three weeks end, being warned, and being (by the ſame authority) there to end and determine injuries, treſpaſſes, debts, and other actions where the debt or dammage is under forty ſhillings. And alſo that nothing be acted within the Mannor, which ſhall be a detriment to the inheritance of the Lord of this Mannor, which ought to be enquired and preſented for the Lord: And that you be the more diligent and careful in enquiring and preſenting the ſame, I have miniſtred a Corporal oath unto you, which is an Invocation, or taking to witneſs the Name of God, to confirm the truth of that you ſhall ſay and preſent, minding neither fraud nor deceit, but onely the truth, not partially but ſeeking the glory of the Almighty, the Commodity of your neighbours, and the whole Common wealth. Thus much of Exhortation in brief. And now to your charge.

The Preamble of a Charge.

My Maſters,

YOu know how and with what obligation you have obliged your ſelves, to perform this ſervice you are about to take in hand: it is the calling of Almighty God to witneſs, that

...t, that you ſhall do ſhall be Truth, and ſhall be ... you performed, without any partiality or reſpect of per...ons.

And this Oath you ought to perform for four reſpects, Firſt. For the good of the ſoul; for if you obſerve ...t your Oaths juſtly, you commit wilful perjury, whereby ...u condemn your own ſouls, and procure Gods wrath... indignation and plague to be conferred upon you, and ...ur poſterity in this world, and in the world to come; ...d on the other ſide, to make conſcience of your Oaths, ...a thing acceptable to God, for *jurare per Deum actus Re...gionis eſt, quo Deus teſtis adhibetur, tanquam is quis ...omnium rerum maximus*, to ſwear by God, is an action ...f Religion, wherein God is called as a Witneſs, who of ...l things is the greateſt.

Secondly, You muſt obſerve your Oaths for the good of ...ur Body, (that is) for your own profit and commodity, ...d for the ſafety of your ſelves and families, for thereby ...rong ſhall be redreſſed, and peace and tranquillity main...ined, whereby the Kingdom muſt needs florish, and ...hereof your ſelves being members, muſt be great Par...akers.

Thirdly, For ſhame and corporal puniſhment, and that ...or the avoiding of the great Infamy that perjury will bring ...u unto, and the eſchewing ſuch puniſhment and danger ...by the Laws do belong unto perjured perſons.

Fourthly, You ought to be careful of your Oaths, for ...ur duties ſake towards your Prince, for the obſervation of ...s Laws and Statutes, and for the execution of Juſtice ...be adminiſtred to every man according to equity.

Therefore to conclude, that your duties towards God ...your Prince may move you, that love of the Kingdom ...ay provoke you, that conſideration of your ſelves may in...te you, or at leaſt, the danger of puniſhment of the Laws ...ay terrifie you; lay aſide malice, put apart affection, ex...ide fear, and imbrace uprightneſs, honeſt and true deal...g; juſtly, uprightly and truly preſent ye the Truth to every ...icle of your charge, ſo near as God ſhall give you grace, ...d ſo here now, this is your Charge;

Quod tacite intelligitur, deeſſe non videtur.

Another short Exhortation to a Jury.

My Masters,

TO put you in mind of your own good, that is, of your Peace and safety, might seem to be in me superfluous, considering that in nature, *Omnia appetunt bonum*, all things, yea the very Bruites themselves do appetite their own good.

The only occasion of our Assembly at this present, is for your good, and to set good Order, Rest and Quietness amongst you, first between Lord and Lord adjoyning together, that one of them should not wrong another: Secondly, betwixt the Lord and his Tenant: and, Thirdly, betwixt and amongst one of them with another.

The continual Jarrs and Discontentments which do daily arise amongst men of reason, and the undue performance of those functions wherein we are placed, will one day administer occasion unto the Creatures to be produced in Judgment against us, if we do not more conscionably look unto our ways.

Look upon the four Elements, the *Fire*, the *Air*, the *Earth*, and *Water*, which seem to be at odds with each other, one striving to vanquish and conquer another, as the cold and windy Air, to dry up the moist earth, and the water to quench the Fire, and the Fire to consume the Water, and yet God the Author of all Peace, and the Rewarder of peaceable men, hath so tempered them, that they sympathize each with other; for the Earth is refreshed by the water, and the Fire is cooled and qualified by the cool Air, and thus they are linked together in love and order, like the golden chain of which the Poet speaketh.

Let these examples teach us, neither let men be out of order: when the Creatures teach us an example of a peaceable life and civil Government.

I cannot but lament, to see how remiss I find men in this service, and how unrespectful of their Oaths, and duties to Almighty God, admonishing them in the best sort

oducing unto them the best sentences of Scripture I can lle&; my words have been but as water spilt upon the ound; for many have come with a resolution to do that they ould do; not, that they should do.

I do not speak this against any man here in particular, nei-er do I think it needful to shew you what an Oath is, no ubt, you understand your selves sufficiently.

Therefore I will conclude with this saying, *Memento un-e venisti, quo redies, & quid agendum est in futuro*, emember what you are, whither you must, and what u are to do hereafter: that is, that you are but dust, ust to the dust, and one day render an Account for eve-idle word, much more for every vain, false and untrue ath; and thus briefly referring these things to your consi-eration, hear now what shall be your charge.

Preambles of Charges.

Amongst all the Obligations whereby you stand in-gaged for the performance of this service, there is one more strong, none more sacred, than your Oath; r Duty of obedience towards the King and his Laws, too weak a string to bind a refractory person, unless me extraordinary penalty keep him in fear; and Charity r preservation of the Weal-publique is cold, and zeal r punishment of Offenders is many times either dull or epostorous: only an Oath, becau e it is a religious Act, th heaviest upon mens consciences, and those who did ghtly esteem them, were termed the sons of *Belial*, as ou may see in the history of *Naboth*, a word signifying *uq; jugo*, meaning such men, *qui jugum laboris, pietatis, legis Dei excusserunt, ac proinde nihil boni agunt.* A ord or two therefore of an Oath in general, and of the Oath you have received in particular.

An Oath is shortly defined thus; *Juramentum est assevetio religiosa de re possibil & licita cum veri Dei in-*

vocatione facta qua petimus ut sit testis dictorum & fallentis puniator.

In it are three Acts to be observed, φασις a proposition whereby we protest a thing done or not done. 2. ὀμοσια an Invocation of Gods name, that we do it *bona fide*, and we will not falsifie. 2. καθαρσις, an extraction or curse of ourselves, imprecating the divine vengeance, if we do otherwise.

Now an Oath is of two kinds, Assertory and Promissory; Assertory, for Assurance, that a thing past or present is true; Promissory is, wherby we bind our selves to do or leave undone any thing. In an Assertory Oath, there is but one Truth agreeing with the thing affirmed or denyed; but in a promissory Oath, there are two Truths required, one present, that we have a mind to obey; and the other future, that we perform that we promise, and both ought to have *judicium, veritas & justitia: judicium, ne incautum, veritas, ne mendax, & justitia, ne iniquum proferatur juramentum.*

And thus much for every Oath in general, now for the Oath you have received in particular: In which are observable three things, the Action, the Subject, and the manner of the Action: The Action is duplicate, (viz) Inquiry and Presentment: The first hath annexed unto it this quality, Diligence; *You shall diligently enquire*: for matter, *diligentia, noverca negligentia*, saith *Boetius*, in every discipline, as diligence is the mother, negligence is the step-dame, *Et si curare parva negligimus, majora perpretrabimus*, saith *Gregory*; and the second Action desireth Truth, *You shall true presentment make*, for *Veritas sola lavat sola liberat*, saith St. *Barnard*.

Now the Subject whereof you are to inquire, are the Articles of your Charge.

The manner of the Action is set down in your Oath, first generally in these words, *The King, Counsel*, &c. and particularly in the words following, , *You are to keep Counsel first for the more speedy dispatch of the Kings service*, for if any other be privy to your presentments, it will be a means to present your proceedings. Secondly, For your own quietness; for if you present any man, and he come

have any notice of it, he will exclaim against you.

Now the particular manner of your proceedings is set down first negatively, *You shall present*, &c. for this is a breach of Charity; *Nor you shall spare*, &c. for this is a breach of Justice: then positively, *You shall present the Truth*, and that by way of direction to, *the whole truth*, without substraction, for that is Hypocrysie. Secondly, *Nothing but the Truth*, without addition, for that is no better then down-right lying.

Thus you see what is required of you, *viz. Diligence*, *Truth*, *keeping of Councel*, *Charity* and *Justice*.

1. *Cum in omnibus rebus tum maxime in repub. administranda diligentia plurimum valet.* Tully.

2. *Veritas res omnium justissima*, saith *Menander*: *quæ nunquam latet, & in omnem partem sui semper similis & una & eadem est, cujus una perpetua vis est, & una facies.* Seneca.

3. *Optimum & tutissimum administrandarum rerum vinculum taciturnitas*, Val. Max.

4. *Charitas bonorum omnium radix.* Augustin.

Let the Light of Truth inform your understanding, the Fire of diligence reform your Wills, the veil of close councel keep your proceedings secret, the band of Charity knit your affections together, and then shall the Lawrel of Justice crown all your actions.

The Charge of the Free-hold and Copy-hold-Courts.

1. YOu ſhall firſt inquire of all ſuch as owe any ſuit unto this Court, and at this day have made default, and preſent them, *viz.* All ſuch as hold any lands to ſue unto this Court, for of what age ſoever, or of what diſtance in dwelling ſuch Tenant is, he muſt here appear, and do his ſuit and ſervice, or elſe be amerced, and this is called *Suite-Service*, becauſe the Land (as it were) is tyed by this ſervice.

2. If there be divers Coperceners who hold Lands of the Lord, to ſue unto this Court, here the Lord ſhall but have one ſuit of Court, and that of the eldeſt Copercener, and the other ſiſters ſhall be Contributers, and this is by the Stat. of *Marlebridge*, cap. 9.

3. The ſame Law by the ſame Stat. is of joynt-Purchaſors.

4. But by the Statute of *Quia emptores terrarum*, made in the 9. year of *E. I.* If the Tenant of this Mannor hold Lands of his Lord: for example xx. Acres of Land by xx d. Rent and Suit of Court, and doth alyen theſe lands to xx. ſeveral men and their Heirs ſeverally; here the Lord ſhall have xx. ſeveral ſuits of Court, where, by his firſt Grant he had but one.

5. If any Tenant be dead ſince the laſt Court, or before, and his death not as yet preſented, you ſhall enquire what Lands and Tenements he held of the Lord of this Mannor, and by what Tenure: (to wit) Knights ſervice, Soccage, Copy of Court Roll, or what other Tenure, what other benefit or advantage is grown to the Lord by the death of this Tenant, (to wit) Ward, mariage, Relief or eſcheat, or what

what other thing; who is his next Heir, and of what age, and in whose custody; and present all these.

6. And if Tenant in Knights-service have made any Feofment, Gift, or Alienation of his Lands by collusion, to the intent to defeat the Lord of his Ward, and be since dead, his Heir within age, he shall be in Ward notwithstanding, for such conveyance is void in the Law.

7. And if any Tenant in Knights-service be deceased and be dead, his Heir within age, he shall be in Ward notwithstanding his Disseisin; and if such Tenant have issue a son under the age of 21. years at the time of his death, he shall be in Ward, till he attain his age of 21. years for his Lands, and if he be not maryed, for his body likewise.

8. And if Tenant in Knight-service have issue a daughter, under age, and marry her to an husband of full age, and die before the daughter attain to her full age of 14. years, yet she shall not be in ward, in regard she is married to an husband, which by intendment of Law, is able to perform Knights service unto his Lord.

9. But if Tenant in Knights service have issue a daughter of full age, and marry her to an husband under age, she shall be in Ward, her marriage notwithstanding, in regard she is married to an husband, which by intendment of Law is not able to perform Knights service unto his Lord.

10. If Tenant in Knights service have issue a daughter full 14. years of age at the time of his death, and either not marryed at all, or married to an husband of full age, she shall not be in ward; but if she be under the age of 14. years, she shall be in ward, till she come to the age of 21. years, both for body and for lands.

11. But in the case before remembred, where Tenant in Knights service hath issue a daughter, under age married to an husband of full age, that if both her husband, and her Ancestor dye before she attain her full age of 14. years, she shall be in Ward, her former contract notwithstanding.

12. Likewiſe a man may at this day hold Lands of a common perſon in Knights ſervice, as to hold Lands by Eſcuage uncertain, which is ſometimes aſſeſſed to more, and ſometimes to leſs, or hold Lands by Cornage, or by Caſtlegard, this is Knights ſervice, and draw thereunto in Ward, marriage and relief.

13. Tenant in Soccage is, where a man holdeth Lands of his Lord by homage and Fealty; and by homage, fealty and ſuit of Court; or by homage, fealty, ſuit of Court, and a certain Rent, or by a certain Rent, if any of theſe reſervations be in a Deed made before the 18. year, *E. I.* and that it be for all ſervices and demands, this is ſoccage. And if ſuch Tenant dye, his Heir within age, he ſhall be in ward, though after the nature of Knights ſervice, for this ſhall be under the protection of the *Prochein amic*, the next of kin to whom the Inheritance cannot deſcend. As for example, If the Lands do come to him upon the part of his father, he ſhall be in protection of the next of kin upon the part of his mother: If they do come to him upon the part of his mother, he ſhall be under government of the next of kin, on the part of the father, until ſuch time as this Pupil hath attained his full age of 14. years, and then he may enter upon his Tutor, call him to an account, and only anſwering and allowing unto him his neceſſary expences about his perſon and tenure.

14. And there is due unto the Lord by the death of this Tenant, a Relief, and that is as much as one years Rent, payable to the Lord by the death of this Tenant, and this is preſently due after the Tenant hath attained to his age of 14. years, the Lord is not to pay any longer time for it.

15. There is likewiſe due unto the Lord by Tenant in Knights ſervice, Relief, in caſe where the Lord hath neither ward nor marriage, and that is, he that holdeth by a whole Knights Fee, muſt pay 100 s. half a Fee 50. s. and ſo according to this rate, he that holdeth more, muſt pay more; and he that holdeth leſs muſt pay leſs.

16. If there be any Rents, Cuſtoms or Services with-

drawn

wn from the Lord of this Mannor, you ſhall enquire of and preſent it; but firſt you ſhall enquire, what Rents, ſtomes and Services the ſame are, by whom they are h-drawn, how long they have been detained, and in t Bayliffs time, forth of what Lands and Tenements ſame are iſſuing; to the end the Lord may diſtrain for the e, and for the Arrearages.

17. If there be any that do conceal any of the Lords nds, (that is) do hold them without his lycence, ſhall enquire what Lands and Tenements the ſame are, t they do contain, what they are worth by the year, how g they have been detained, and by whom, and preſent it.

18. If there be any Villain or Bondman of blood that e purchaſed any Lands or Tenements holden of the d of this Mannor, and preſent it: for the Lord may t, and take ſuch Villains Lands and Goods at his plea-e.

19. If any Tenant of this Mannor ſeiſed of Lands in -ſimple, be the ſame Free-hold or cuſtomary, is dead, d of them without heir general or ſpecial, the Lord ht to have theſe Lands by Eſcheat.

20. If any Tenant of this Mannor ſeiſed of any ſuch ds in Fee-ſimple be attaint of Felony, Hereſie, mur-s by verdict, outlawry or confeſſion, the King ſhall e his *annum, diem & vaſtum*, and the Lord ſhall after e theſe Lands by eſcheat.

21. If any Baſtard have purchaſed any Lands or Tene-ents holden of the Lord of this Mannor, and be dead, d of them without heir of his body, the Lord ought have theſe Lands by eſcheat: and therefore if there be ſuch, you are to enquire of them, and preſent them.

22. There is a Rule in *Littleton* which may ſuffice for theſe, that none can inherit as heir, any manner of nds in Fee-ſimple, but he that is heir unto him of the ole blood.

23. If

23. If any Tenant of this Mannor doth surcharge the Common by putting to it more cattle then by the rate of his tenure he ought, or if any having meerly Common appendant, and not Common appurtenant, doth put to the Common, Cattle not commonable, as Hogs, Geese and Goats; or if any doth break the Lords soyl, unless it be for gravel for repair of the high ways, making up the breach again; or that doth use the Common in any other sort, but only with his Cattle for bit of mouth; or that doth erect any house or cottage, commit any trespass, or encroach any parcel of the wasts, without the Lords lycense, all these are inquirable and presentable.

24. And for the better understanding of these kinds of Common, you shall know that they are of four sorts, viz.

1. Common appendant.
2. Common appurtenant.
3. Common ingross.
4. Common per cause de visinage.

1. Common appendant is, where a man hath Common of pasture time out of mind of man, and by prescription, and of common Right belonging to his own Plow-land for such Cattle as do gain and manure the Land, and not for Hogs, Geese and Goats.

2. Common appurtenant is, whrere a man hath Common of pasture time out of mind of man, and by prescription, but not of common Right belonging to an antient house or Messuage: This Commoner may use his Common of pasture with all manner of Cattle; yet, so as he that hath common appurtenant, may have sufficient Common of pasture for his Tenement.

3. Common in gross, is of two sorts; that is, Common in gross in number, and Common in gross without number.

1. Common in gross in number, is where a man hath

h Common of paſture; for example, 10. 20. or any mber certain of Oxen, Horſes, Sheep or kine.

2. Common in groſs without number, is where one h Common of paſture for all manner of Cattle; and yet s Commoner muſt uſe his Common of paſture ſo, as he t hath Common appendent, may have ſufficient Common paſture.

4. Common per Cauſe de Viſinage, is, where two own-ſhips or Lord-ſhips adjoyn together, and there is division of their waſtes aſſunder; if they of the one nnor put forth their Cattle out of their houſes or lands, that of their own accord, and they go into the other, lawful for them ſo to do; but if the Owner either drive m thither, or ſtaffe-heard them, there he is a treſpaſser.

5. You ſhall next inquire of Rechuſer; and that is, if y man occupy two Farms, the one within this Mannor, the other without the Mannor; and at ſuch times as r Commons be good, and your fields caſt open, he bring- his Cattle from the other Mannor into this Mannor here depaſture; this is a wrong, and you ought to inquire of , and preſent it; for none can put Cattle merchandize n the Common, ſuch as he buyeth at one Fair, to ſell at nother: neither can any put the Cattle of ſtrangers upon e Common, upon a falſe pretence they are his own; but if do ſo, he is a treſpaſſer.

6. You ſhall next inquire of the Statute of *Mortmaine*, ing the Stat. of *Magna Charta*, called the *Great Charter*: nd that is, if any Tenant of this Mannor hath made any feffmenr, Gift, Grant, or any alienation to any religi- s houſe, and their Succeſſors, or to any religious perſon, their Succeſſors, or to any guild, fraternity or Corpora- n, and their Succeſſors, not having firſt obtained the enſe of the Kings Majeſty, under the great Seal of *En- land*; and the licenſe of the Lord of this Mannor ſo to do, Lord may enter, and take ſuch Lands as forfeit within a year

year and a day. It is also holden by the Lord *Brook* in his *Abbridgment, That a Lease made to any of these uses for 10 or more years, is Mortmaine, and the Lord may take the same.*

27. You shall also inquire, if any Tenant of this Manor hath sold away his Lands, and not given notice of it to the Lord; and he that hath purchased it, hath not come to the Court, and done his fealty and suit of Court, whereby the Lord may know his Tenant, and of whom to avow, and of whom to receive his Rents, Customes and Services, this is inquirable, and presentable.

28. You shall next inquire of the Stat. of *Wast*, called the *Stat. of 7. H. 8.* That if any have suffered to decay any house of husbandry, by taking away the profits from it, and laying to another, here the Lord ought to have the Moytie of these profits, till it be made a husbandry again.

29. If any have committed any Trespass in the Lords Demesnes, be the same Land, Meadow, Pasture, Wood or Water; or if any have fowled or fished in the Lords Rivers, or hawked or hunted in the Lordship, you shall inquire of it, and present it.

30. You shall inquire if any have taken any Honey or Swarms of Bees within this Lordship, whereof the Owner is not known; or if any have taken any Hawkes, or Ayries of Hawkes, and present them.

31. If any Tenant of this Mannor, or any of the Lords Officers have taken any Distress for amerciament, Rent, Service or Dammage feasant, and is rescued in the taking of it, or in carrying it to the pound, this is here inquirable, and presentable.

32. If any Cattle have been pounded in the Lords pound, and be thence delivered without Authority of law, this is also inquirable and presentable,

33. If

33. If any have plowed up any Meerſtones, or removed, Land-marks, or plowed up any Reynees or Ballees between Lord and Lord, or between Lord and Tenant, this inquirable and preſentable.

34. If any have incroached any parcel of the Lords waſtes, though it be but a ſmall quantity, be it for ſetting ſtreight his ledge, his ditch or pale, or any eaſments about his houſe, yet it is a wrong to the Lord; you ought to inquire of it, and preſent it.

Another Preamble.

AS nothing is juſtly to be compared, either for the preſervation of the Prince, for the prudent and politique Proviſion of the people, for conſervation of Peace and Concord, or for grave Government of every Kingdom to true Obedience; and obſerving of the laudable Laws of this Realm: For by Obedience every man is taught: Firſt to give unto God due Honour and Glory, to the King his appointed Prerogative, to reſpect Rulers as is required; and laſt to diſcern the diverſities of degrees. Even ſo there is nothing more odious to God, more hurtful to man, more peril to the Prince, more peſtilent to the people, more contrary to Chriſtian Peace, nor yet more danger to the Realm, then Diſobedience, the daughter of the Devil, and mother of diſcord.

For as by humble and true Obedience each man is moved to give God true Honour and Glory, to the King his appointed Prerogative, to the chief Lord his reverence and ſervice, and to every degree his due reſpect: Even ſo, by Diſobedience, Gods Glory is defaced, the King is in peril, the Lord of this Mannor abuſed, and the Kingdom conſumed.

I could

I could here declare to you at large, what happened to *Adam* in Paradiſe for Diſobedience; what happened to the old World in the time of *Noah*, and to divers others ſince; but of theſe I forbear to ſpeak, ſeeing you are well taught what is the end reward of diſobedience by domeſtical examples, which I rather think better with ſilence to ſlip over, then with large diſcourſe to relate.

Numbers, cap. 15. ver. 32. *While the children of* Iſrael *were in the wilderneſs, they found a man that gathered ſticks on the Sabboath day.*

33. *And they that found him gathering ſticks, brought him to* Moſes *and* Aaron, *and unto the whole Congregation.*

34. *And they put him in ward, becauſe it was not declared what ſhould be done unto him.*

35. *And the Lord ſaid unto* Moſes, *the man ſhall be ſurely put to death, all the Congregation ſhall ſtone him with ſtones without the camp.*

36. *And all the Congregation brought him without the camp, and ſtoned him with ſtones, and he dyed as the Lord commanded* Moſes.

Divers good Expoſitions upon this part of Scripture, do affirm, that if the people had not preſented this offence unto *Moſes*, or if the Congregation had not executed the Law upon him, they had all been guilty, and partakers with him in his ſin.

How much more you (if you do not both preſent and puniſh Offenders and Offences) which are tyed with a double bond; the one with the like bond wherewith the Children of Iſrael were tyed; the other with an Oath, which is the calling of Almighty God to witneſs, that that which you ſhall do, ſhall be the Truth, and ſhall be by you performed without any partiality or reſpect of perſons.

I wiſh you lay this to heart, make conſcience of your oaths, and Duties to God, ſet aſide all fear and partiality, and preſent according to the Articles of your Charge.

Another

Another in a Court Baron.

BY the ancient Laws of this Realm, this our kingdom of *England* is an absolute Monarchie and Empire, consisting of a head and body Politique, compact and compound of divers members; all which are divided into two general parts, that is, the Clergy and Laytie; both which, next and immediately under God, ought to be subject and obedient unto the King their head: for he is their head, and they are his members; and he is ordained to govern these his kingdoms and people, and especially the holy Church, and to defend the same from all Errors, Mischiefs and Iniquities, and to root out all Malefactors and evil Doers which do disturb the Peace of the Kingdom, by the execution of such Laws and Statutes as are made for that purpose: All which he hath committed to his Judges, Justices, and other inferior Officers and Ministers, as it is meet and convenient that he should, because they are his Substitutes, for the well governing of this his Kingdom in Peace and Tranquillity.

And here by the way, I shall shew unto you, that these Court-Barons be very ancient, and of a long continuance, and that originally they were ordained by Barons and Noblemen who had Seats and Voices in the upper House of Parliament; but in this latter age they are almost devested from Barons to come to Knights and Gentlemen, as now you see. And primarily, they were ordained for three ends or purposes:

The first was, to set Rest and Quietness betwixt the Lord and Lord adjoyning together, that one of them shall not wrong another.

The second was, To set rest and quietness betwixt Lord and Tenant adjoyning toge her; that on the one side the Lord should not wrong the Tenant, but quietly permit and suffer him to occupy that for which he payeth his Rent, as in all reason he ought: For as *Bracton* saith, *The Lord is*

as

as much bound to the Tenant, as the Tenant to the Lor his reverence ſet apart.

And on the otherſide, The Tenant ſhould not wron the Lord, by with-holding or with-drawing from him h Rents, Cuſtoms or Services.

And the third and laſt end was, to ſet Reſt and Quie neſs between Tenant and Tenant, and that one of the ſhould not wrong another; and if any wrong b done amongſt them, under the valew of forty ſhillings, her is the place of redreſs for it. And every treſpaſs and offenc muſt be puniſhed by an amerciament, which muſt b preſented by 12. men, that be ſworn, and ſeaſſed b the Officers of the Court. Now this amerciament muſt b reaſonable, according to the quality of the Offence, ac cording to the Stat. of *Magna Charta*, cap. 14. & Weſtm. 1. cap. 16. and not outragious; and alſo the Lord ma not compel his free Tenants by way of diſtreſs, to anſwer an thing concerning his Free-hold by the Stat. of *Marlebridg cap.* 22. *&* 15. *R.* 2. *cap.* 13. And by another Stat made in the 16. *R.* 2. *If any Lord doth compel an of his Free-Tenants, to come either before him or his Coun cel, to anſwer concerning his Free-hold, he ſhall forfei* 20. *l. to the King.*

Wherefore conſidering now, that theſe Court-Barons were firſt ordained for theſe that I have already ſhewed unto you And that the Redreſs of all Wrongs, and puniſhing of al Offenders within his Lord-ſhip, doth wholly reſt in you And that you be here ſworn, and put in truſt as the worthi eſt and moſt fit men for this ſervice; it behooveth you to be careful and reſpective of your oaths and Duties to Almighty God.

The Prophet *Jeremy* teacheth us a good Leſſon, and that is this, *Jurabis* (ſaith he) *in veritate, in judicio, & in juſtitia, & amovete amorem & timorem, odium & ſpem* that is, You ſhall ſwear in Truth, in Judgment and in juſtice, not regarding the Greatneſs, Power and Authority of the rich; nor the Weakneſs, Poverty or Imbecility of the Poor; but in all things follow that ſaying of the wiſe Philoſopher *Plato*, *Juſtitia eſt judicium, ubi non perſona ſed opera conſiderantur*: Juſtice is that judgment where not the perſon but the works are conſidered. Ex

ex

Ex cordibus vestris omnem affectionem expellite, & memores estote quantas minas Deus instituit pro juramenti violatore. You must, if you would do as you ought to do, remove all affections out of your minds, and call to remembrance what threatnings God hath laid upon such as have violated their Oaths. For it is written in the 24. Cap. *Levit. vers.* 14. *Qui blasphemat nomen Dei mortem morietur.* That he that blasphemeth the name of God, shall dye the death. And in the 5. Chap. of the *Acts* of the Apostles, it was said unto *Annanias* and *Zaphira, Non vives quia loquutus es mendacium, & confestim occisi fuerunt pro mendacio in vendendo agri*; That it was told them they should live no longer, because they had dealt deceitfully, and made a lye to colour their deceipt, in selling the field, and they were presently slain for it. If God in those days did so punish them for making of a Lye, which in this age is a thing so common, how much more will he punish those which do not stick only to swear, but willfully to forswear themselves. Let us therefore in the fear of God be warned by the harms of others, lest the like Judgement that light upon them befall us.

In doing well and performing your Duties in this service, which you are about to take in hand, you shall both please God, give good content to the chief Lord of this Mannor, and cause the Kingdom to increase and florish amongst you, and both your selves and your neighbours to live in rest and quietness together.

But on the other side, if you be remiss herein, or either wilfully or negligently over-pass your Duties, you shall not only offend God, wound your own Consciences, and cause others that are of a wicked disposition, by your lewd example, to attempt the like; but also you your selves must be esteemed, adjudged and deemed to be the causes of all misdeamenors and offences that are or shall be within this Lord-ship and to be ayders and supporters of all Malefactors and evil doers within this Mannor; for it is you that must publish and make known unto us both offenders and offences, to the end such course may be taken, as by the Lawes and Customes of this Court are and shall be provided.

And therefore once more putting you in mind of your Oaths and Duties to Almighty God, I will ceaſe to trouble you any further at this time by way of Exhortation, and ſo proceed to the matter of your Charge.

The Charge.

1. FIrſt, you ſhall enquire of the *Suitors* which owe Suit to this Court, whether they be Heirs or no, and preſent their Names that make default, for they which be abſent ought to be preſent here as well as you, except they have ſome lawful impediment to the contrary; for they hold their Lands aſwell to do their *Suit*, as to pay their Rent; ſo that if they do not their Suit, they ſhall be amerced, or the Lord may have good Remedy for the ſame. Alſo you ſhall underſtand, That every common Suitor is bound by the Laws to appear at the *Lords Court-Baron* every three weeks: notwithſtanding the Lord for your eaſe, (which he eſteemeth more than his own profit) ſuffereth it to be kept but ſeldom, as appeareth; for which cauſe every of the Tenants ought to be more willing to come unto this Court at ſuch times as are appointed for the holding of it; for if they voluntarily abſent themſelves, then they render evil for good, for when they did *Fealty*, they were ſworn to be true Tenants unto their Lord, and to pay, and do all manner of Suits, Cuſtoms and Services due for their Tenements, at their day aſſigned, and therefore let every man remember his Oath and Duty, and do his Suits and Services according to the ſame, otherwiſe he ſhall fall into the danger aforeſaid.

The tenants are obliged to appear at eve y three weeks end at the Lords Court-Baron.

2. Next you ſhall enquire, whether there be any Tenant dead ſince the laſt Court-day or before, whoſe death as yet is not preſented, and you ſhall preſent the ſame: Alſo what Lands and Tenements he holdeth of the Lord of this Manor

What Tenants are dead ſince the laſt Court.

at the time of his death, and by what Services, to wit, ether it were by *Knights-service*, *Soccage-tenure*, or *-hold*, and what advantage the *Lord* shall have by his h, as *Relief*, *Escheat*, *Fine*, *Heriot*, &c. and who is next Heir, and what age he is of, and in whose custody, present it. You shall understand, there be divers ner of Tenures, but most men do hold by *Knights-ser-*, or *Soccage-Tenure*.

Knights-service is when the *Tenant* holdeth of the *Lord* *Escuage*, that is to say, by the service of the *Shield*; also hold by *Castle-guard*, to wit, to keep a *Castle* or *Tow r*, ther place of his Lords upon reasonable notice, when the d heareth that enemies come into *England*, that is *Knights-ice*.

Knights-service what it is.

Also he that holdeth by *Homage fealty*, and *Escuage*, eth by *Knights-service*. Also he which holdeth of his Lord low a Horn to warn the men of that Countrey when ene- s do invade *England*, holdeth by *Knights-service*, and *Knights-service* ought always to be done by a man in proper person, which formerly drew unto it Ward, and riage, and at this day Relief: for when such a Te- r died soised, and his Heir male within age and unmar- d, the Lord had the Land holden of him, and also the riage of him untill he were of full age, *viz.* the age of years. But if such a Tenant died seized, his Heir ale being of fourteen years or more then the Lord should ther have had Wardship of the Land, nor of her body; the Law intendeth, that a woman of that age may have a sband able to do *Knights-service*: and if she were with- fourteen years of age and unmarried, then the Lord had e Wardship of her Land, and also of her body, until she ained the age of sixteen years, and this at this day is ex- ct, of which we see more in the Act of Pa liament *for taking away of the Court of Wards*. And some such nants do hold by half a Knights-service, and some by f a *Fee*, and some by more, and some by less; and if h a Tenant dieth, which holdeth by one *Knights-fee*, d his Heir being of full age, then the Lord shall have *omage* and *Fealty*, and also five pounds for a *Relief* (of is see the said Act) of him that holdeth by half a *Knights-fee*

Homage, fealty, and Escuage, Knights-service Kn. service is done by a man in propria persona

In Scobels acts in Wards, &c. See the act of Parliam. for the taking away of the Court of Wards.

two pounds ten ſhillings; and he that holdeth by more ſ
pay more, &c. you ſhall therefore preſent whether
ſuch Tenant died ſeized of any ſuch Lands and Tenem
ſo holden, yea or no.

If Tenant by Knights ſervice made any Feofment to his Heir Alienation by colluſion and holding by Knights-ſervice, Feofment to his uſe, the land holden in Knights ſervice. Entry for conditions broken.

3. Alſo you ſhall enquire, whether any Tenant wh
held by *Knights-ſervice*, made any *Feofment* to his He
and after died, his Heir being within age.

4. And whether any ſuch Tenant made any *Alienat*
of any ſuch Land ſo holden to any perſon by colluſion,
defeat the Lord of his profits, and preſent that.

5. Alſo you ſhall enquire, whether any ſuch Tenant wh
held by *Knights-ſervice*, did make any *Feofment* by De
to his uſe, or any *Recognizance* by *Fine* to his uſe, or ſuf
any *Recovery* againſt him to his uſe, and after died, a
no Will by him declared, and preſent it: for in thoſe ca
alſo the Lord ſhall have *Relief* of his Heir, being of f
age, and other Duties, as well as if his Tenant had di
ſeized.

6. Alſo you ſhall enquire, whether the Heir of ſuch a Ten
entered into any ſuch Lands ſo holden, for any condition br
ken, being made by any of his Anceſtors, and preſent

Diſſeizing of the Tenant, and death before any re-entry.

7. Alſo you ſhall enquire, if any Tenant which held
Knights-ſervice, was diſſeized of Lands ſo holden, that is
ſay, put out of them by one who had no right or title to the
and after died before any Re-entry, or any legal Recove
had, and preſent it.

what Soccage tenure is.

8. *Soccage-tenure* is, where the Tenant holdeth of th
Lord by *Fealty*, and certain Rent for all manner of ſervices
or by *Homage* and *Fealty* for all manner of ſervices, or
pay a ſumme of money for *Eſcuage*, or to pay a certa
ſum of money for *Caſtle-guard*: All ſuch Tenures are *T*
nures in Soccage: And all other Tenures which are n
Tenures by *Knights-ſervice*, are *Tenures in Soccage*: a
where ſuch Tenants die ſeized of any Lands ſo holden, th
Lord of whom the Land is ſo holden, after the death of h
Tenant,

ant, can have no more profit, but only his *Fealty* and *Relief* is as much money as one years rents.
ief, that is to say, as much money and service as one years
t doth amount unto. As if the Tenant held by *Fealty*,
ten shillings for a *Relief*, over and besides the ten shil-
s, which he shall pay for his Rent, and in such case after
death of the Tenant, such Relief is due to the Lords
ntenance, so that the Heir be of the age of fourteen years,
he ought to tarry for his Relief until the day of pay-
t of the Rent; but he ought to have his Relief mainte-
, and for that he may distrain immediately after the death
is Tenant.

. Also if a *Copy-holder* die sole seized of any Lands or *Copyholder*
ements so holden, his Heir being of the age of fourteen
s, then he shall pay a Fine unto the Lord, and do *Fealty*,
be admitted Tenant: But if the Heir be within the age
fourteen years, then some Guardian shall be admitted
ccupy his *Copy-hold*, and to pay, and do his service due
the same, *viz.* If Lands descend from the Father, then
Mother, or some of her next kindred, shall have the oc-
tion of the same Lands, until the Heir be at age, and
shall have a little Fine for the Guardian-ship, and the
r at his entry shall pay the whole Fine; you shall enquire
reof, and present the same.

0. Also you shall enquire, whether any Tenant which *If Tenant by Soccage made any feofment to his use.*
by *Soccage-Tenure*, did make any Feofment in *Fee* to his
and died seized of the use, his Heir being within age, and
Will by him declared of the use, and present it, for that
Lord shall have his *Relief*, as well as if he had died seized
the same Lands.

11. Also you shall enquire, whether any *Free-holder* hath *Whether any Free-holder hath alienated any of his free-hold Lands.*
nated or sold away his Free-hold Lands or Tenements,
ny parcel of them, and present it; for he which hath
cha'ed the Land, before he enter, ought to come and
notice unto the Lord, that he hath purchased the same,
so the Lord shall know his Tenant, and the service
h the former paid unto the Lord, shall be apportioed ac-
ding unto the value of the Lands.

Herriot ſervice. Herriot Cuſtom.

12. Alſo you ſhall enquire, whether any that held by *Herriot-ſervice*, or *Herriot-cuſtome* died ſeized of any Lands or Tenements ſo holden, & preſent it, for their Service ſhall be appointed: alſo the Lord ſhall have of every of their ſeveral pa[rcels] divers *Heriots* at their ſeveral deaths. Alſo if one man have ſeveral parcels of Lands holden by *Herriot-ſervice*, and two ſeveral Titles, and dieth ſeized of the ſame, the Lord ſhall have after his death two *Herriots*.

Whether any Copy-holder died ſeized of any ſuch Lands.

13. Alſo you ſhall enquire, if any *Copy-holder* died ſeized of any lands ſo holden, and preſent it; alſo whether any *Copy-holder* hath made any *Leaſe* of his Copy-hold, or otherwiſe alienated or ſold the ſame, and preſent it, for it is forfeiture of his Copy-hold: For if a Copy-holder will alien or ſell away his Copy-hold, he ought to come into the Court, and ſurrender the ſame into the hands of the Lord to the uſe of him who ſhall have the Eſtate, or elſe out of the Court he ought to ſurrender it unto the Bayliffe, or to ſome of the Tenants of the Lord-ſhip, to the uſe of him who ſhall have the Eſtate, and they to whom the ſurrender is made, ought to preſent the ſame at the next Court, and then pay his Fine for the ſame, and take it to his uſe in the Court, and do his endeavour to be admitted; and if he be not at the ſame Court, then the Lord ſhall have the mean profits of the ſame Lands, all the Rent-ſervices and Reparations being deducted, until he be amerced of his Fine, according to his Duty.

How a Copy-holder ought to ſurrender his Copy-hold.

Whether any Copy-holder hath made any ſurrender.

14. Alſo you ſhall enquire, if any Copy-holder hath made any ſurrender of his Copy-hold, or any part thereof ſince the laſt Court day, or before, and preſent it, and into whoſe hands it was made, and in whoſe preſence, or to whoſe uſe: for at every ſurrender the Lord ought to have a Fine, and the Party into whoſe hands the Surrender is made ought to come to the next Court, and preſent the ſame, and to yield up his Right into the Lords hands, to the uſe of the alienee, according to the Truſt repoſed in him, or otherwiſe he forfeiteth his Copy-hold, except he have a reaſonable excuſe: for that he doth as much as in him lies, to defeat the Lord of his Fine, and alſo to defeat the other party, to whoſe

hose use the Surrender was made.

15. Also you shall enquire, if any Tenant of the Lord-ship have given any Lands into *Mortmain*, and present it. *Mortmain*

Mortmain is, If a man give or sell any lands to any house of religion, or to any other which be corporate by the *Knights Grant*: also if one make a Feofment upon trust to the use of a religious House, or to the use of a Fraternity corporate, that is *Mortmain*. *What Mortmain is.*

Also if one exchange Lands with a body corporate, this is *Mortmain*.

Also if a Religious person, or other body corporate, doth hold of any man by *Knights-service*, and he release unto him, this is *Mortmain*, and then the Lord may enter and shall hold the same by force: you shall therefore present them that have given any Lands or Tenements in *Mortmain*.

16 Also you shall enquire, whether any Tenant for term of life or years or any Copy-holder of this Lord-ship hath committed any *Waste* or suffered any *Waste* to be committed upon their Lands or Tenements. *Waste.*

Waste is, When any Tenant for term of life, years, or any *Copy-holder*, pulleth down any house, or cutteth down any Timber-trees, or suffereth the house willingly to fall, being on their Copy-hold Tenements; or if any of the Tenants plow up any Meadow-ground, or if they suffer any Wall or Pale which were covered, to be uncovered, by reason whereof the same *Wall* or *Pale* falls into decay; or if any of them dig Coals, Chalk or Sand, or make any *Mines* in their grounds this is *Waste*. *What waste is, and how the same is committed*

Also if they cut down a Tree to the value of three shillings four pence, this is admitted *Waste*: but if a man cut down Timber to repair the old Houses that stand upon parcel of the same ground, and therewith doth repair them, then it is no *Waste*: But if he with Timber, build a new House, then the cuttiug down of such Timber, is Waste; Or if he cut down any Timber to sell to repair such Houses which are fallen into decay, such is *Waste*. But if *Waste* be done with a Tempest no Tenant shall be punished for such *Waste*: but if *Waste* be done by any danger,

the Tenant ſhall be puniſhed for ſuch *Waſte*. Alſo it is no *Waſte* to fell in a reaſonable time ſuch Trees as have been felled within twenty years before: But if Tenants cut down ſuch Trees to burn upon their Tenements, where they have Wood ſufficient, this is *Waſte*. Alſo a *Copy-holder* may not cut down Wood to ſell, but he may to burn upon his Tenement, or to make Reparations, as aforeſaid.

Whether any tenant in poſſeſſion or reverſion died ſeized without any Heir.

17. Alſo you ſhall enquire, whether any Tenant in poſſeſſion or Reverſion, died ſeized of any Land or Tenement holden of this Lordſhip, having no Heir at the time of his death, yea or no, and preſent it; for then the Lord ſhall have the Land holden of him by *Eſcheat*. You ſhall underſtand, that none ſhall have Lands in *Fee-ſimple*, as Heir unto any man, unleſs he be Heir of the whole bloud: for if a man have iſſue two ſons by divers women, and dieth ſeized of the ſame Land, and the elder entereth and dieth without iſſue, the younger ſhall not have the Land as Heir to his brother, becauſe he is of the half bloud, but another Heir of the Fathers ſide, ſhall inherit the ſame Land; and if he have no Heir of the Fathers ſide, then the next Heir on the Mothers ſide ſhall not have the Land, but the Lord of whom the Land is holden, ſhall have it by *Eſcheat*; and ſo when Land deſcendeth on the mothers ſide, the Heir on the Mothers ſide ſhall inherit, and not the Heirs of the Fathers ſide. Alſo you ſhall underſtand, that *Filius in Adulterio conceptus*, viz. a *Baſtard* can never be Heir unto any man, nor have Heir unto himſelf: Therefore if any *Baſtard*, or any other Tenant have died ſeized without Heirs, you ſhall preſent.

A Baſtard may not inherit.

Whether any tenant died, being put out of his land by one that had no right to it.

18. Alſo you ſhall enquire, if any Tenant was ſeized of any Lands or Tenements, and was put out of the Land by one who had not a right Title, and afterward died without any Heir, the Lord ſhall have his *Eſcheat*, as well as if his Tenant had died ſeized.

19. Alſo you ſhall enquire, whether any Tenant of this Lord-

Lordſhip hath committed any *Petty Treaſon*, *Felonies* or *Murthers*, for the which he was hanged, or for the which he had Judgment to be hanged, though afterwards he paid his Charge, and was delivered to the Ordinary, and preſent it. And whether any Tenant hath committed any *Petty Treaſon*, *Felony* or *Murther*, for the which he hath abjured the Land, or which he was out-lawed, or by death, and preſent it: For in all thoſe caſes the Lord of whom the Lands are holden, ſhall have them by *Eſcheat*, and alſo the evidences concerning the ſame.

Petty treaſon, felony, or murder committed of any tenant, for which he was hanged or had judgment to be hanged

20. Alſo you ſhall enquire, if there be any Rents, Cuſtoms, or Services with-drawn from the Lord-ſhip, which of right ought to be done, and preſent it, and what Rents, Cuſtoms and Services they are, and by whom they are with-drawn, and where the Land lieth, that the Lord may have the remedy for the Arrearages thereof.

Whether there be any rents loſt, or ſervices with-drawn.

Alſo you ſhall enquire, whether the *Copy-holders* or Farmers of this Lordſhip do uphold and repair their Tenements yea or no, and preſent them. You ſhall underſtand, that every Tenant is obliged to three things, *viz.*

Whether the tenants do uphold and repair their Tenements.

1. That he be a true Tenant to his Lord.
2. That he ſufficiently repair his Tenements.
3. That he pay and do all Suits, Cuſtoms and Services at his days aſſigned: for he took upon him to do ſo when he did *Fealty*; and if he do not pay his Suits, Cuſtoms and Services, the Lord ſhall have good Remedy, and recover the ſame with his damages: And if he be a Copy-holder, and do the contrary, he forfeits his Copy-hold.

21. Alſo you ſhall enquire, if any Tenant of this Lordſhip, which is obliged by Reaſon of his Tenure to do ſuit unto the Lord, will do the ſame, yea or no, and preſent it; And whether any have uſed to with-draw their Suit from the Lords *Mill*, in not grinding their corn there, and preſent it.

Whether any tenant hath with-drawn his ſervices.

22. You

Waife and ſtray.

22. You ſhall alſo enquire whether any *Waif* or *Stray* is, or was within the *Lord-ſhip* and whether the Lord be anſwered of the ſame; if not, preſent by whom they are conveyed away: Alſo you ſhall enquire, if any *Herriot* be conveyed away, and by whom, and preſent it.

Reſcous.

23. You ſhall alſo enquire, Whether any perſon have made *Reſcous* againſt the Lord, or any other Officer, and preſent it.

What is it.

Reſcous is, when the Lord diſtraineth in the Land holden of him for his Rent or Services in arrear; or if the Lord come upon the Lands, and would diſtrain, and the Tenant or ſome other will not ſuffer him, this is *Reſcous*. Likewiſe if the Lord diſtrain for ſervice behind, or for dammage-Feaſant, and in driving Cattle to pownd, the Beaſts enter into the Houſe of the Owner, if he that diſtraineth pray deliverance, and the Poſſeſſor will not deliver them, this is a *Reſcous*, therefore if *Reſcous* have been made, you ſhall preſent it.

Breach of pownd.

24. Alſo you ſhall enquire, whether any perſon hath broken the Lords pound, that is, to have taken away a diſtreſs put in, and preſent it. You ſhall underſtand, that if the Lord do diſtrain any Tenant for Rent or Service in arrear, he may impound the ſame Diſtreſs in a *common pound* if he will, or in his own ground, or in his Neighbours if he will, by the licenſe of his neighbour; and all thoſe places in which the Lord doth impound any Cattle, are called *The Lords pound*; but not ſo, when another doth impound any Diſtreſs in his own pound, or in his Neighbours: It behoveth him to give notice to the other party; for that if the diſtreſs be quick, he may give it meat; and then if the beaſt die for want of ſuſtenance, he that was diſtrained, ſhall be at the loſs, and then he that diſtrained before, may diſtrain again for the ſame Rent or Duty.

Whether any Tenant

25. You ſhall alſo enquire, if any Tenant within the Precincts of this *Manner*, hath ſuffered any Farm or Houſe to fall to decay, which at any time ſince the firſt year of the Reign

Reign of *Henry* 7. hath been let with twenty Acres of Land, and present it; For if they suffer their houses to fall to decay, the Lord may take and distrain for half of the issues and profits of the same, and keep to his own use until such time as the houses shall be sufficiently builded and repaired, *viz.* maintained again for husbandry.

hath let any Farm fall to decay, viz. not maintained for husbandry as before,

26. Also you shall enquire, if any Inhabitants or *Commoners* have over-charged the *Common* or High-ways, or your *Common-fields*, by putting in more Cattle then they ought to do; and whether any of them have put their Cattle in any the *Commons* aforesaid, before the days agreed upon, and present it; for the Lord (as it seems) may distrain the Surplusage damage feasant, or else you may make among your selves Orders and Laws for your own profit, that none shall do upon certain penalties, *&c.* and by such *Laws* the Inhabitants and *Commoners* shall be bound *&c.*

If any have overcharged the Common, or high-ways, or put Cattel in them before the days agreed upon.

27. You shall also enquire, If any persons have made any Pits in the High-ways, and whether any person do commonly break Hedges, and suffer any Hogs go unyoaked or unringed, to the annoyance of their Neighbours.

If any persons have made pits in the high ways, breaking of hedges, &c.

28. You shall also enquire, whether any persons have drained or stopped any ways, waters, dithces, paths, or turned any of them into a wrong course, and present it.

Stopping of ways, waters, &c.

29. Also if any have incroached any Land of the Lords, *viz.* Land, Meadow, Pasture, Wood, Heath, Moor, or any other vacant Land without License of the Lord, by setting of his hedge, pale or otherwise, and present the same.

Whether any have encroached.

Note, That all the vacant and waste Land within the *Mannor*, belongeth to the Lord of the *Mannor*.

30. You shall also enquire, whether any person hath plowed up, or removed away any Mere Marks, Baulks or Limits between one piece of Land and another, and present it.

Whether any have removed any marks.

31. Also

Whether any have ſtalked with buſh or beaſt.

31. Alſo you ſhall enquire, if any have ſtalked with a buſh or beaſt to kill *Deer* which is in the Lords Cloſe or Park, and preſent it.

Whether any have or do keep away any evidencss.

32. You ſhall enquire, if any perſon hath, concealeth, or keepeth away any evidences, Charters, or Court-Rolls, Cuſtomary Terres, or any other evidence which concerns the Lordſhip, or any parcel thereof, and preſent it.

Whether any have fiſhed, fowled, &c.

33. Alſo you ſhall enquire, if any perſon have fiſhed, fowled, hawed or hunted in this Lordſhip, or Lords-warren, and preſent it.

Whether any have taken any Feaſants, &c.

34. You ſhall enquire alſo, if any perſon have taken any Feaſant, Partridges with net, ſnare, or other Engine upon the Free-hold of the Lord of this *Mannor*, and preſent it.

Swans or Swans egs.

35. Alſo you ſhall enquire, if any have taken away any *Swans*, *Signets*, or eggs of the Lords Swans out of their Neſts, and preſent it.

Concealed land.

36. You ſhall likewiſe enquire, if any Lands of the Lord be concealed or kept back, or occupied by any without the licenſe of the Lord: Alſo what land it is, and how much land hath been ſo occupied, and of what value by the year the ſame is, and preſent it.

Treſpaſs in corn, graſs, &c.

37. Alſo you ſhall enquire, if any Treſpaſs be done in any of the Lords liberty, *viz.* in his Corn, Graſs, Meadows, Paſture, Woods, Hedges, Waters, or Pounds; or if any take Hawks, or ayre of Hawks, or ſuch like treſpaſs, and preſent them.

For incloſing in ſeveral grounds without the licence, &c

38. You alſo ſhall enquire, if any land be incloſed, and the ſame kept in ſeveralty, which ought to lye open, without lycenſe of the Lord and other Free-holders, you ſhall preſent it; for no Tenant of the Lordſhip ſhall loſe the Common in the ſame.

A Copyholder may

39. Alſo if any *Copyholder* let his *Copyhold* Land for longer time then a year and a day, without licenſe, except it be by

by Cuſtom that he may let for longer time, and if he do, it is forfeiture, and preſent the ſame. *not let longer then a year and a day.*

40. You ſhall alſo enquire, whether any Tenant for years of life, have granted any greater or larger eſtate then they had in their Lands or Tenements; and preſent it, for that is a forfeiture of their Eſtate. *Granting greater eſtates.*

41. Likewiſe you ſhall enquire, if the *Bayliff*, *Hedborough*, *Conſtable* and *Hayward*, and all other Officers have well and truly executed their offices, and preſent it. *Whether the Bayliffs &c. do execute their office.*

42. You ſhall likewiſe enquire, whether all the *defaults* and *plaints* that were proſecuted at the laſt Court, be ſufficiently amended; and whether all the orders and laws heretofore made, be obſerved and kept, and preſent it. *Whether the defaults and plaints be amended*

43. To conclude, you ſhall enquire of all other things by me omitted, which you know to appertain to your Charge; and by the *Oaths* that you have taken, you ſhall truly and diligently enquire of all the premiſſes, and plainly without concealing of any fault, and make a return of your preſentment, ſubſcribed with your hands, and ſealed with your ſeals, by three of clock in the afternoon. *Concluſion.*

Then commnnd the *Bayliffe* to make proclamation, *O yes*, and adjourn the Court till after dinner, in this manner. *Adjournment.*

All manner of perſons that have any more to do at this Court, may for this depart, and keep their hour here at two of the clock in the afternoon.

After you return from *Dinner*, if any *ſurrenders* or *admittances* be to be made, or actions to be tryed, let them be done: Otherwiſe call the Jury for their preſentments, if they be ready, and ſwear two *affeerers* to *affer* them as before at the *leet*. Then diſcharge the Court, the *Bayliffe* making an *O yes*, thus.

All manner of perſons that have any more to do at this Court holden here this day, let them come forth, and they ſhall be heard, otherwiſe they, and every one elſe, may for this time depart, and keep their day here upon a new warning. And ſo God ſave the King, and the Lord of this *Mannor*. *The diſcharge of the Court.*

Some

Some select Cases out of the new Reports, *and others, concerning the* Lord, Copy-holder, *and* Copy-holds, Surrenders, Forfeitures, *&c.*

First, Of the Lord.

HE that is a *Lord* to grant and allow a *Copy-hold*, must be such a one, as by *Littletons* definition, is seised of a *Mannor*, so that he must be in possession at the time of the Grant; for though he have good Right and Title, yet if he be not in possession of the *Mannor*, it will not serve. And on the other side, if he be in Possession of the *Mannor*, though he have neither Right nor Title thereunto, yet in many Cases, the Grant and Allowance of such a *Copy*, is good, as he is *Dominus de Facto, sed non de jure.* Calthrop, 48.

A Copy-hold granted by a Disseisor, may be avoided by the Disseisee.

A *Copy-hold* granted by a Disseisor, or any other who hath the *Mannor*, of which it is parcel by wrong, shall be avoided by the Disseisee, or any other who hath right to the *Mannor* by his entry or recovery of the *Mannor*. *Popham Rep.* 71. Yet it was agreed, that admittance upon *Surrenders* of *Copy-holders* in *Fee*, to the use of another; or if an Heir in case of a descent of a Copy-hold were good, being made by a Disseisor of a *Mannor*, or any other who hath it by Tort, because these are Acts of necessity, and for the

But admittance upon Surrenders, &c. good.

benefit of a ſtranger, *viz.* of him who is to have the nd by the Surrender, or of the Heir: And alſo Grants ade by Copy by the *Feoffee*, upon Condition, of a *Mannor*, fore the Condition broken, are good, becauſe he was law- *Dominus pro tempore*. Ibid.

Owen. Rep. fol. 115. Trin. 1. Jac. rot. 853.

If a Lord grant a Copy in *Fee*, having but an Eſtate for in the *Copy-hold*, no larger Eſtate ſhall paſs then he him- hath. *Quia nemo poteſt plus juris in alienum transferre, ipſe habet. Co.* of *Copy-holds*, *fol.* 96.

None can paſs a larger eſtate then he hath.

If the Lord of a *Mannor* taketh a Wife, and after maketh *hold* Eſtates, according to the Cuſtom, and dyeth, ough the *Feme* hath this *Mannor* aſſigned unto her for her wer, yet canot ſhe avoid the Copy-hold eſtates, becauſe Copy-holders are in by a Title, paramount the Title of *Feme*, viz. by Cuſtom. *Co.* of *Copy-holds*, 45.

Copy-hold eſtates not to be avoided for Dower.

A forge un Cuſtumary de ſervices & Cuſtums, d'un Man- ul prejudice dul Seignior, reſt eſt forgery d'un intereſt ius 5. *Eliz.* cap. 14. *Pars gravata avera*, double coſts double damages, & ſur ceſt Judgment in le Star-Cham- , ceux damages & coſts ſeront leve per breve Anglois di- ſt au viſcount in nature de *levari facias* de brevis, *Catal-*, &c. *terris* le offendor, & Fine impoſed ſur le Offen- pour le Roy, in cette caſe targera jeſq; dits damages & ſeront leve pur le party grieved per courſe de cette ourt & Common Leg.

15. *Eliz. Dyer* 323.

Secondly, Of the Copy-holder, and Copy-hold.

HE is *Tenant by Copy of Court-roll*, being admitted of Lands or Tenements within a *Mannor*, that time mind by uſe and cuſtom of the ſaid Mannor, have been miſeable, and demiſed to ſuch as will take the ſame in *Fee*, in

in *Fee-tail* for Life, years, or at Will, according to the said *Mannor, by Copy of Court Roll* of the same Mannor. *West. Part.* 1. *Sym.* lib. 2. *sect.* 646.

What person is sufficient to be a Copy-holder.

And that person is sufficient to be a *Copy-holder*, who is himself able, or by another to do the service of a *Copy-holder*; as an Infant may be a *Copy-holder* for his *Guardian* and *Prochein amy* may do the service: But a Lunatick Ideot cannot be a *Copy-holder*, because they cannot do the service themselves, nor depute any other, and the Lord shall retain the *Copy-hold* of an *Ideot*. *Carthrop* fo. 52. Nor a man cannot be a *Copy-holder* unto a *Mannor* whereof he himself is Lord, although he be but *Dominus pro termino annorum*, or *in jure Uxoris*. Ibidem.

Eliz. *Dyer* 301.

What interest a Copy-holder hath in his estate.

Let us enquire what interest *Copy-holders* have in their estates, and that will appear to be very strenuous; for although Customary Tenants are termed in *Law*, *Tenants at Will*, yet are they not simply so, nor meerly Tenants at Will; for every *Copy-holder* is but only *Tenant at Will*, *secundum consuetudinem Mannerii*, which Custom warrants his possession, and therefore it is a more certain estate then an estate at Will, for the *Copy-holder* may justifie against his *Lord*, so cannot a *Tenant at Will*, whose estate is determined at the Will and Pleasure of his Lessor: And although his estate is but by Custom, and by no Conveyance, the state is raised, it is as material, so as it be an Estate: And this Estate being supported by Custom is known in Law an Estate, and so attainted in Law: And the same Law hath not notably distinguished Copy-hold Tenances by Custom, and Tenancies at Will by the Common Law: For a *Copy-holder* shall do *fealty*, shall have aid of his Lord in an action of Trespass, shall have and maintain an Action of Trespass against his Lord, his Wife shall be endowed, the Husband shall be Tenant by the Courtesie without any new admittance.

8. *Eliz.*

And it was adjudged in the Common Pleas, 8. *Eliz.* That if a *Copy-holder*, surrender to the use of another for years, the Lessee dieth, his Executors shall hall have the Residue of the Term without any admittance. *Mic.* 14. and 15. *Eliz.* A *Copy-holder* made a Lease for years by Indenture, warranted by the Custom; it was adjudged, that the Lessee

ſee ſhould maintain *Ejectione firmæ*, although it was objected, that if it were ſo, then if the Plantiff doth recover, he ſhall have *Habere facias poſſeſſionem*, and then Copy-holds ſhould be ordered by the Laws of the Land, 10. *Eliz.* Land and Copy-holder for life, the Lord grants a Rent-charge out of the Manner, whereof the Copy-hold is parcel, the Copy-holder ſurrenders to the uſe of *A.* who is admitted accordingly, he ſhall not hold it charged; but if the Copy-holder dyeth, ſo that his eſtate is determined, and the Lord granteth to a ſtranger *de Novo*, to hold the ſaid Lands by Copy, this new Tenant ſhall hold the Land charged. *Leonards rep. first part. fol. 8. Mich. 25. & 26. Eliz.*

Leonards rep. first p. fo. 8. Mich 25 & 26. Eliz.

Tenant by Copy of Court Roll, hath an Inheritance by the cuſtom; but when he doth that which is contrary to the cuſtom, he ſhall be then in no better condition then a bare Tenant at Will, *Dalſtrod.* 1. part, fol. 51. ſo that performing the duties and ſervices according to the Cuſtome, doth ſo eſtabliſh and fix the eſtate, that the ſame by the cuſtome of the Manner is deſcendable, and his Heirs ſhall inherit the ſame; and therefore his eſtate is not meerly (as I have ſaid before) *ad voluntatem Domini*, but *ad voluntatem Domini ſecundum conſuetudinem Manerii*, ſo that the cuſtome of the Manner is the ſoul and life, and alſo the chief baſis on which ſtands the whole Fabrick of Copy hold-eſtates; for without cuſtom, or if they break their cuſtom, they are ſubject to the Lords Will.

Copy-holder & tenant at will. Dalſtrod. *first part.* fo. 51.

And by cuſtom a Copy-holder is as well inheritable to give his land according to the Cuſtom, as he who hath a Free-hold at the Common Law, for *Conſuetudo eſt altera lex*, cuſtome and uſage time out of mind, *&c.* may create and conſolidate Inheritances, *Conſuetudo vincit legem*, 7. E. 4. *Danby* chief Juſtice ſaid, that a Copy-holder is as well inheritable to have his land according to the Cuſtom, as he who hath Free-hold at the common Law. *Co.* 4. 21.

7 E. 4.

If Tenant by Cuſtom paying his ſervices be ejected by his Lord, he may have an action of Treſpaſs. 21. E. 4. 8. *Co.* 4. 23.

Tenant may have an Action of Treſpaſs againſt the Lord.

If a woman Copy-holder in Fee have a Husband, who

No Tenant by the courteſie without ſpecial cuſtom.

hath iſſue, and the Wife dieth, the Husband ſhall not be Tenant by the Courteſie, without ſpecial Cuſtom. *Co.* 4. 22.

The heir of a Copyholder not bound to come to any Court during his nonage.

If a *Copy-holder* dye, his Heir within age, the Heir is not obliged to come to any Court, during his Non-age to pray admittance, or to tender his Fine. Alſo if the death of the Anceſtor be not preſented, nor Proclamation, he is not at any detriment, although he be of full age. *Leonards rep. firſt Part.* fol. 128. *Paſch. Eliz. B. R.*

Whether or no a Copyholder may lop trees.

Prowulocs Rep. firſt Part fol. 231. *Swain* and *Becket.* A Queſtion was, That whereas there is a *Mannor* wherein are *Copy-holders* for life, who uſed to lop Trees, growing upon the *Copy-holds*, for their neceſſary fire, and repair of their cuſtomary Tenements; the Lord of the Mannor maketh a Leaſe of the Mannor for years, excepting the Trees. The Leſſee of the Mannor granteth a Copy for life, the Copy-holder loppeth his Trees growing in his Copy-hold; Whether or no he might do it by Law, was the doubt of the Jury. And it was held by all the Court, *Hill. 6 Jac.* that the Copy-holder might lop the Trees, becauſe he is in by the Cuſtom which is above the Lords eſtate after he is admitted, and that the Copy-hold depends not upon the Lords intereſt: And that the Trees excepted, and the ſoyl remained parcel of the Mannor, becauſe the Leaſe was but for years: But if the Leaſe had been for life, it had been otherwiſe, becauſe it had been ſevered from the Mannor.

Copyholder for life cannot claim cuſtom to cut down and ſell trees.

But note, That in Juſtice *Crooks Rep.* firſt part, fol. 160. That a Copy-holder for life, may cut down and ſell Timber Trees, and diſpoſe of them at his pleaſure, is a void and unreaſonable cuſtom, and not allowable by Law; for it is a deſtruction of the Inheritance, and againſt the nature of a Copy-holder for life. For a Copy-holder hath but a particular eſtate in the Land, and ſo he hath in the Trees: And it is unreaſonable, that he ſhould cut down, ſell and deſtroy the Inheritance, and it would be to the great prejudice of thoſe who ſucceeded, for they ſhould not have to maintain the Houſe and the Plough. And it is againſt the nature of the Eſtate of a Copy-holder, that he ſhould do

to Acts in deſtruction of his Eſtate; therefore Cuſtoms which maintain them are allowable, but not *e converſo*; Vide 24. *E.* 3. *Barr.* 77. 21 *H.* 7. 40. 11 *H.* 7. 14. 9 *H.* 4. *Waſt.* 59.

If a Copy-holder of Inheritance ſell his Copy-hold to one of his Heirs, this ſhall deſcend, and no Tenant by the *Courteſie*, nor yet *Dower* ſhall be thereof, without a ſpecial Cuſtom for the ſame. *Eolſtrod ſecond part*, fol. 275. Mich. 12. Jac.

No tenant by the curteſie nor Dower ſhal be of Copy-hold lands, Leonard rep. 1. part 126.

If I give all my Lands, Tenements, and Hereditaments in *D.* my Copy-holds do not paſs, *Leonard. Rep.* firſt part. 126.

An eſtate tayl cannot be of Copy-hold lands without uſe Crook 1. part fo. 31. & 32. Poph. fol. 38.

An Eſtate *tayl*, cannot be of Copy-hold Lands, unleſs it be in caſe where it hath been uſed; for the Statute *de donis conditionalibus*, ſhall not enure to ſuch cuſtomary Lands, but to lands which are at Common Law, and therefore an Eſtate tayl, cannot be of theſe cuſtomary Lands, but in caſe where it hath been uſed time out of mind, *Popham*, fol. 34. And it was holden afterwards, that an Eſtate tayl was wrought out of Copy-hold land by the equity of the Statute *De donis conditionalibus*, for otherwiſe it cannot be that there can be any Eſtate tayl of Copy-hold land, for by uſuage it cannot be maintained, becauſe that no Eſtate tayl was known in Law before this Statute, but all were *Fee-ſimple*, and after this Statute, it cannot be by uſage, becauſe this is the time of limitation, after which an uſage cannot make a preſcription, as appeareth 22. and 23. *Eliz.* in *Dyer*.

And by 8. *Eliz.* a cuſtom cannot be made after *Weſtmin.* 2d. And what Eſtates are of Copy-hold land, appeareth expreſly in *Littleton* in his Chap. of *Tenant by Copy-hold*, &c. And in *Brook tit. Tenant by Copy-hold*, &c. 25. H. 8.

In both which it appears, that a Plaintiff eſch in Copy-hold land in the nature of a *Formedon* in the *Diſcender* at the Common Law, and this could not be before the Statute *de Donis conditionalibus* for ſuch land, becauſe that before that Statute there was not any *Formedon* in the *Diſcender* at Common Law, and therefore the Statute helps them for their Remedy for intayled Land, which is but cuſtomary by equity.

And if the Action ſhall be giuen by equity for thy land, why ſhall not the Statute by the ſame equity, work to make an Eſtate in tayl alſo of this nature of the land. *Poph.* ibidem.

And Copy-holds are now become by uſuage of ſuch eſtates, that Law allows them to be good againſt the Lords themſelves, they performing their cuſtoms and ſervices, and therefore are guided by the Guides and Rules of the Common Law. *Dyer* Trin. 12. Eliz And to ſay, that Eſtates of Copyhold land are not warranted but by cuſtom, and every Cuſtom lyes in uſage; and without uſage a Cuſtom cannot be, is true, but in the uſage of the greater, the leſſer is always implyed, *Omne majus in ſe continet minus*: As by uſage three lives have been granted by Copy of Court Roll, but never within memory, two or one alone, yet the Grant of one or two lives only is warrantable by this Cuſtom; for the uſe of the greater number of lives, warrants the leſſer number, but not e *converſo*.

A Copy-holder may aſſign one to eſſoin for him, but not to do his ſervice.

If the Copy-holder by his letter of Attorney appoint the ſon of his Farmer his Antorney, to do the ſervices for him due for his copy-hold: ſuch a perſon ſo conſtituted and appointed, may Eſſoyn for the copy-holder, but not do the ſervices for him, for none can do the ſame, but the Tenant himſelf, *Leonard.* 1. part. fo. 139.

Copy-hold not extendible by Stat. Stap. but it is upon the Stat. of Bankrupts, not liable to any charge of the Lord, &c.

Copy-hold land is not extendable upon a Statute-Staple, but upon the Statute of Bankrupts it is extendable, *Fromlows* 1. part, 34. As long as a Copy-hold of Inheritance is in the Tenants hands, it is not lyable to any eſtate or charge of the Lord, as *Dower, Curteſie, Elegit, Statute*, &c. But when it is in the Lords hands, it is liable *Co. 4.* 22. But a cuſtom in this caſe may make it chargeable. *Calthr.* 88, 89, 92, 93.

We will now declare ſomething of Surrenders.

Of

Of Surrenders, what are good, and what not.

LOrd and Tenant, *Copy-holder* by Surrender, or by nomination by force of a custom precedent, desires his Lord at his Court to admit him to the *Copy-hold* estate, and offers him his *Fine*, the Lord refuses, he cannot take the profits before admittance, here is *damnum & injuria*, whether for refusal he may have an action of the Case or not; and it was resolved, *Pasch.* 13. *Jac.* P. R. That an action of the Case lies not against the Lord for his Refusal to admit him, without a special custom, or prescription for the same, *Omnis innovatio plus novitate perturbat, quam utilitate prodest*; for if upon every such Refusal an Action shall be brought, this will introduce many inconveniences. *C.* 4. *r.* in *Brownes* case. But note that in all cases of Ministerial offices, if they refuse to do their offices, actions upon the case shall well lye against them, as against the *Clarke of the Inrolments*, if he refuseth to inrol a *deed*, an Action upon the case lyeth against him for this but it shall not be so in cases of trusts, *Rolfirod second part*, fol. 337, 338. *Foords* case *Hill.* 12. *Jac.*

Upon a surrender action lies not against the Lord for refusing admittance.

In ministerial offices action lies against him that will not do his office, but not so in cases of trust.

If a *Surrender* be to the Lord generally, without saying to whose use, it is good enough. *Kitch.* 81

A surrender to the Lord good.

If the *Copyholder* surrender to the use of another, and the Lord grant it to the *Cestuy que use*, not naming the surrender; this is good enough by *Calthr. fo.* 90.

A surrender to the use of another, &c.

In a *surrender* it matters not, if the party to whom it is; be precisely expressed, if by any circumstance he may be known: And therefore to *surrender* to the *Major* of *York*, next of his kin, or next of his blood, his Sister, his sonne, may be good, and it may be made certain by averment. So if it be to a mans Wife

In a surrender it matters not if the party to whom it is, be precisely expressed, &c.

without warning of her, or the High-Sheriff of *Yorkshire*. But a Surrender to the use of ones Cousin or Friend, is void for incertainty, so it is if it be to the use of *A. B.* or *C. Co.* 4. 29. of Copy-hold 96.

Surrender to the Lord &c.

If a Surrender be made to the Lord in general, without expressing to what use, it shall be taken to the Lords use, *Kitch.* 81.

Surrender to A. B until he marry C. D. &c.

If a Copy-hold be surrended to the use of *A. B.* and his Heirs, till he marry *C. D.* and then to the use of them two in special tayl; this is valid, and shall enure accordingly, *Calth.* fol. 22.

Surrender to the use of a stranger, &c.

If a Copy-holder surrender to the use of a stranger, in consideration that the stranger shall marry his daughter before such a day; In this case if the marriage succeeds not, the stranger shall take nothing by the surrender. But if the consideration be, that the stranger shall pay such a sum of money at such a day, although the money be not paid, yet the surrender is valid. *Calth.* fol. 37.

Surrender to A.B use if he pay 20 l. at a day &c.

If the Copy-holder surrender his Land to the use of *A. B.* so that *A. B.* pay 20 l. at such a day if he please, this is an absolute, not a conditional surrender. *Calth.* fol. 39.

Surrender to the Lord to the use of I. S. paying 100 l. &c.

If a Copy-holder surrender his Copy-hold of Inheritance into the hands of his Lord, to the use of *I. S.* paying one hundred pounds to his Executors within such a time after his death, he to whose use this surrender is made, takes by force of this present y. *Wolff. 2d. part, fol. 275. Mic. Jac.* 12.

Surrender to the use of one for life, &c.

If a Copy-holder surrender to the use of one for life, who is admitted and dyeth he in the reversion may enter without a new admittance, *Leonard. first part*, Rep. 114.

Copy-hold may be extinguished without an actual surrender.

If a Copy-holder bargain and sell his Copy-hold to the Lord of the Mannor, which hath the Mannor in Lease for years, the Copy-hold Estate is thereby extinguished; And if a Copy-holder come into the Court, and says that he is weary of his Copy-hold, and requests the Lord to take it, this is a surrender; for between the Lord and the Tenant, a conveyance shall not need to be according to the Custom, for the Copy-holder hath no other use of the Custom, but only to convey the Land to another: *Vide Coo.* 4. in his Copy-

Copy-hold Cases, That a Releaſe by him who hath Right to a Copy-hold, to one who is admitted Copy-holder, extinguiſheth the Right of the Copy-hold by Deed. And if a Copy-holder releaſe to the Lord, that extinguiſheth the Copy-hold, although it be contrary to the nature of a Releaſe to give a Poſſeſſion. *Huttons Rp.* fol. 65. *Elemer-haſſes* Caſe.

Huttons Rep. fo. 65 Blemer. caſe.

A Copy-holder in Fee of a Mannor of the Dean and Chapter of *Weſtminſt.* ſurrendred the Copy-hold Lands out of Court, by the hands of the Tenants, according to the Cuſtom of the Mannor, to the uſe of another and his Heirs, upon certain conditions. At the next Court the ſurrender was preſented, but in the preſentment the Conditions were omitted.

Wherein a Releaſe to a Copyholdsr, who admitted upon a ſurrender, ſhall extinguiſh the right of the Copyholder who releaſeth.

He to whom the Surrender was made, being dead, the Lord by his Steward according to the Cuſtom, admitted his Daughters and Heirs who entered. He who made the Surrender by his Deed, releaſed to the Daughters being in poſſeſſion.

In this caſe, amongſt other points, it was reſolved, That the Releaſe in the caſe at Bar, had extinguiſhed the Right of the Copy-holder; becauſe that he to whom the Releaſe was made was admitted to the Tenements, and ſo Copy-holder in poſſeſſion, ſo as the Releaſe of the cuſtomary right did enure to them. And it was holden, that thereby the Lord was not at any prejudice, becauſe he had his *Fine* upon the *Admittance*; And they to whom the Releaſe was made, were in by Title, *viz.* by the *Admittance* of the Lord, and ſo the Releaſe did ariſe by way of Extinguiſhment, *Paſc.* 31. *Eliz.* in B. R. *Kite* & *Quientons* caſe. 6o. 4. part. 25.

If the *Copy-holder* ſurrender to the uſe of his right Heirs, the Land ſhall remain in the Lord, until the death of the Copy-holder, for then his Heir is known, *&c.* See *Dyer* 99. *Leonards firſt part* rep. 143.

Leonard. firſt part 133.

If a man ſeized of Copy-hold land in the right of his Wife, or Tenant in tayl of a Copy-hold doth ſurrender to the uſe of another in Fee, the ſame doth not make any diſcontinuance, but that the iſſue in Tail, and the Wife may reſpectively enter, *Leonards* firſt part. fol. 124.

Leonard. firſt part fo. 124.

An Infant who ſurrenders his *Copy-hold* land within age, may enter at his full age, without being put to any ſuit for it. *Poph.* Rep. *fol.* 39.

Poph fo.39

It was reſolved by all the *Barons* of the Exchequer, *Paſch.* 4. *Iac.* That if a *Copy-holder* ſurrender to the uſe of a younger ſonne and dyes, that this younger ſonne cannot bring an Action till admittance; but if the Copy-hold be deſcended to the heir, he may have an *Action* before admittance. See *Coo.* 4. *fol.* 22. *Copy-hold caſes*: it was likewiſe ſaid, That all *Copy-holders* of the KINGS *Mannors* may now have admittance into their Copy-hold eſtates well enough, and the order for the ſtay of their admittances, which was made heretofore is now diſſolved and quaſhed. *Lanes Report. fo.* 20.

Lanes Rep. 20.

A Copy-holder ſurrendred out of Court according to the cuſtom of the *Mannor*, which at the next court was preſented, and entry thereof made by the *Steward*, viz. *Compertum eſt Homagium*, &c. but no admittance; and afterwards *Ceſtuy que uſe* ſurrenders before admittance and the firſt *Copy-holder* ſurrenders to the Plaintiffe; and in this caſe there were two queſtions.

A ſurrenderer of a Copy-hold cannot ſurrender before admittance.

Firſt, whether he may ſurrender before admittance?

The ſecond was, who ſhall have the land? whether the *Copy-holder* or the *Lord*? and it was held that he could not ſurrender before admittance, and the entry of the ſurrender doth not make admittance, for this being the ſole act of the *Steward* ſhall not binde the Lord, and it is not like to the uſual form of an admittance; *viz. Dat domino de Fine, fecit fidelitatem & admiſſus eſt inde tenens*, and it was agreed to, and ſaid that in *Hare* and *Bricklegs* caſe, the admittance of a *Copy-holder* was compared to the induction to a Benefice which gives the poſſeſſion, *Poph. fo.* 128.

Poph. fo. 128.

A Copy-hold cannot be ſurrendred to another by an Attorney without Deed, but one may be admitted to a Copy-hold eſtate by *Attourney* without a Deed. For there is a difference betwixt the paſſing of an eſtate and the receiving of an eſtate paſſed. *Prac. Regiſt. tit. Surrender.* 2. *Apr.* 1650. *B. R.*

No ſurrender by an Attourney without deed, but an admittance may be.

Yet note, in *Coo.* 9. *part*, *Combes caſe*. It is affirmed that a Surrender of a *Copy-hold* may be given and taken by *Attorneyes*.

What

What ſhall be ſaid a reaſonable Fine *for a* Copy-holder *to pay upon his admittance.*

Hill. 5. *Car. Rot.* 125. *Dow* and others againſt *Golding* in treſpaſs upon a *Demurrer*, and the queſtion was, whether the Lord of a *Mannor* may aſſeſs two years and half value of land according to racked Rent for a *Fine* upon grant of a Copyhold, and for non-payment entry for forfeiture? And all the *Court* conceived, that one year and a half of Rent improved is high enough; and the Defendant aſſeſſing two years and a half, it is unreaſonable: and therefore the Plaintiff might well refuſe the payment thereof, and conſequently the entry of the Defendant for a forfeiture not juſtifiable. *Crook* 1. part. *fol.* 142.

Crook, fir, 1 *part.* fo. 142.

A Copyholder brought an action of Treſpaſſe againſt his Lord, for an houſe and an acre of land. The defendant pleaded, that he had admitted the *Copy-holder*, and had aſſeſſed a Fine of twenty nobles upon it, and had appointed him to pay it to his Bailiff, at his houſe being within the Mannor, three moneths after, and alleadged that he had not paid it accordingly: whereupon the plaintiff demurred, and the opinion of the Court was, that the Lord was not bound to averre, or ſhew that the Fine aſſeſſed was reaſonable, but it muſt come on the *Copy-holders* ſide, to ſhew the circumſtance of the caſe, to make it appear to the Court to be unreaſonable, and ſo to put it upon the Judgment of the Court. For the Fine in law is arbitrary, and is due to the Lord of common right: and it is onely in point of excuſe to the tenant, if it be unreaſonable, which the Court cannot judge, but upon the fact agreed: and the *Copy holder* if he be a defendant, may plead not guilty: and then it ſhall come in evidence whether the Fine was unreaſonable or no. But the opinion of the Court was againſt the Lord in this caſe, becauſe he had not laid a demand of his Fine, at the time it grew due, or ſome time after, of the perſon of the tenant, as the Lord muſt do in caſe of Forfeiture of *Copyhold*, both for Rent and Fine. *Hob.* rep. *fo.* 135. *Denny* in *Lemman.*

In a Copyhold the unreaſonableneſs of the Fine muſt come on the part of the tenant.

What

What shall make a Forfeiture of Copy-hold Estates, and what not.

WE now descend to *Forfeitures of Copy-hold Estates*, both what shall be, and what shall not be forfeited.

First, in a Forfeiture of a Copy-hold estate by making of a Lease of his Copy-hold land contrary to the custom, there ought to be very direct and certain Proof made, of a certain Lease, with a certain beginning and ending of it, and likewise of any other thing supposed to be acted and done by a Copy-holder, and contary to the custom of the Mannor, thereby to make a Forfeiture of his Copy-hold Estate, it must also appear certain to the Court; for if a Stranger shall come and make oath to this purpose, it shall not be of any force or effect to prove a forfeiture, especially if the Copy-holder still continue in possession, and so dyes seized of his Copy-hold estate, and never came in question till after his death.

28. *H.* 8. *Dyer. fol.* 24. *pl.* 151. *Plow. fol.* 273. *b. in* Say *and* Fullers *case* & 14. *H.* 8 *fol.* 14. *b.* & *Coo.* 6. 35. *Bolstrod first part fol.* 50.

And if such a presentment shall be allowed in the Lords Court upon an Oath made by a stranger, as to make a Copy-hold estate, every Copy-holder might be in danger to lose his Copy-hold estate. Or if a Copy-holder did promise to make a Lease, and it is not proved in *facto*, that he did make the same, this is no forfeiture of his *Copy-hold* estate.

Or if a *Copy-holder* do make a Lease of his *Copy-hold* land, and so a forfeiture being granted contrary to the custom of the *Mannor*, if after this he continues still in possession, and the Lord of the *Mannor* dyes, and afterwards his widow, or he who hath the *Mannor*, doth receive Rent from the *Copy-holder*, he shall never, after acceptance of Rent, take any benefit or advantage of the forfeiture. *Bolstrod.* first part fol. 50.

If

If a *Lessee* for life build a house upon his land, and afterwards pulls it down again, this is a forfeiture of the *Copy-hold*, ibid. fol. 50.

A forfeture to build & pull down again.

If a *Custom* be, that a *Copy holder* may pull down houses, such a custom is not good; if the custom be for a *Copy-holder* to cut down trees, in this for the warranting of such a custom, the difference will be this; If he be a *Copy-holder* of Inheritance, then such a custom to cut down trees for such a *Copy-holder*, will be a good custom; but otherwise it is, if he be a *Copy-holder* for life, there such a custom is not good. *Ibid.* fol. 51.

No good custom to pull down houses, or to cut down trees, &c.

Bolstrod. *first part fol.* 51. & 52.

If a *Copy-holder* erect a house, and pull it down again, it is a clear forfeiture of his *Copy-hold* Estate *Ibidem.* 52.

By the Law of the Land, every *Copy-holder* may make a Lease for a year without forfeiture: Yet admit it be a forfeiture, if the Lord take a *surrender*, and enters not for the *forfeiture*, but makes a Lease for years, his Lessee shall not enter for the *forfeiture* for the Lessee cannot, when the Lord allows thereof. Yet to the Lease for one year it was answered, that he must have a special custom or else it is not good, unless it be a for Tryal of a Title, which hath been allowed, because it is for reducing a Rite, and for the Lords benefit.

A Copyholder by the common law, without special custom, cannot make a Lease for one year, but it is a forfeiture.

And to the second it was said, that admitting it is a forfeiture, yet the Lords acceptance of the *surrender* not knowing of the *Forfeiture* is no dispensation therewith, and consequently, that the Lords Lessee hath a good estate and right in him, for which his Entry is lawful, this was approved good by the Court, and the first part over-ruled. *Crook* Rep. fol. 169.

Crook first rep. fo. 169

Copy-holder made a Lease for one year *Et sic de anno in annum*, during the life of the *Copy holder*, (excepting one day at the end of every year for the *Copy-holder* to enter, and this only for to avoid a forfeiture) but it was clearly resolved. *Mic.* 8. *Jac. B. R. rot.* 601. that this is a Forfeiture of his *Copy hold* estate: for if a Lease be made *de anno in annum*, this must of necessity be a Lease for twenty and two years, and so is *Potkins case* in 14. *H.* 8. fol. 14.

A Lease for one year by a Copyholder, &c. a forfeiture. Bolstrod *rep.* first part *fol.* 215.

As to the reservation of one day, at the end of every year

to

Lutterels case, Mich. 8. Iac. B. R. rot 602. Hetleys reports fo 122

to make his leaſe but for one year, and ſo to be warranted by the cuſtom, it will nothing avail him, though he had excepted a moneth at the end of every yea, it would have been to no purpoſe, for by this invention he had a purpoſe to cheat and deceive his Lord, but he is deceived himſelf, *Bolſtro's 1 part. fo. 215. Lutterels caſe. Mic. 8. Jac. B. R. rot. 602.*

A Copy-holder may incloſe land formerly incloſed; & dig Marl to be laid upon the ſame land. Winches rep. fo 8.

If a *Copy holder* make a Leaſe for years to commence at *Michaelmas* 5 it is forfeiture preſently, *Hetleys rep. fo. 122.*

A *Copy holder* may hedge and incloſe, but not where it was never incloſed before, and he may dig for marl without any danger of forfeiture, but he ought to lay the ſaid marl upon the ſame Copy-hold land, and not upon other Land, *Eaſter, 19. Jac. Winch. rep fo. 8.* But if land be digged to make a bank, and if more be digged than is neceſſary, it is waſte, and if it be not caſt down, for the land might be made barren 41 *E. 3. Weſt. 82.*

The heir may take the profits before admittance, and make a leaſe, &c. Poph. rep. fo 39.

The heir before admittance may enter and take the profits, and make a Leaſe according to the cuſtome or bring an action of treſpaſs againſt him who diſturbs him? But if the Lord require his *Fine* or his *ſervices*, and the heir refuſe to do them, this may be a forfeiture of his *Copy-hold*; But until lawful ſeiſin made by the Lord (becauſe it belongeth to him) the heir may intermeddle with the poſſeſſion, though he be not admitted by the Lord, where it is an Eſtate of inheritance by the cuſtome, *Pophams rep. fo. 39.*

To refuſe to pay a Fine certain, is a forfeiture. Or refuſe to appear at his Lords Court.

It is a forfeiture of a Copy-hold for the Copy-holder to refuſe to pay his *Fine*, if it be a *Fine certain*; but if he refuſe to pay a *Fine incertain* after it is ſet, *quære* whether it be a *forfeiture* or not, for that *Fine* may be unreaſonable. See before *forfeit.* Or if he refuſe to appear at his Lords *Court*, and to do his ſervice there, *Prac. Regiſt. tit fo. forfeit. Trin. 24. Car. B. B.* yet if the Copy-holder dwell in a Town far diſtant from the Mannor, a general warning within the Mannor is not ſufficient, but there ought to be given to the perſon notice of the day when the Court ſhall be holden, &c. For his not coming in ſuch caſe cannot be called a voluntary refuſal: ſo if a man be of that debility in body, as he cannot travel without danger, ſo if he have a great office, &c. theſe are good and ſtrenuous cauſes of excuſe: It was likewiſe holden, that if a Copy-holder make default at the Court, and be there amerced, although that the amer-

Some excuſive reaſons why he may not appear at the Lords Court.

ment be not estreated, or levyed, yet it is a dispensation of the forfeiture. But note that a general warning within the Parish is sufficient for if the tenant himself be not resident upon his Copy-hold but elsewhere, his Farmer may send notice to him of the Court, *Leonards rep. first part. fo.* 133. And note farther by *Hetly* in his *rep. fo.* 7. *Pasc.* 3 *Car.* C. B. that if a Copy-holder be summoned to the Court, by *Common Proclamation* or express notice, and he does not appear, it is no forfeiture, because it is but a failer of service, and no denial, and for the neglect he may be punished and fined.

A general warning of the Court within the Parish is sufficient. Leonards first part fo. 133. *Hetleys report fo.* 7.

If a man seised of Copy-hold land in the right of his wife, surrendreth the same to the use of another, and the Husband dyeth, it is no discontinuance to the Wife; but that the Wife may enter, and shall not be put to a *Cui in vita*, nor the heir to sue a *Cui in vita*. *Coo.* 4. 23. And if a Copy-holder for life surrendreth to the use of another in Fee it is no forfeiture, for it passeth by surrender to the Lord, and not by Livery, and Copy-hold Estates shall not have such qualities as Estates at Common Law have without special custome. *Ibidem.*

One seised in the right of his wife, surrenders it, & dies, no discontinuance to the wife. Co rep. 4. 23.

A woman Copy-holder during her widdowhood sowed the land with corn, and before severance of the crop of corn she took a husband: it was adjudged in that case that the Lord should have the crop, and not the husband; for although the estate of the wife was uncertain, and determined by limitation, and not by condition in *fait*, or in law; yet because the same determines by the act of the Lessee herself, the Lord shall have the crop. The same law is, If the woman maketh a Lease for life and the Lessee sowes the land, and afterwards the wife taketh a husband, for the Lessee shall not be in a better condition then the Lessor. *Hil.* 44. *Eliz.* in B. R. *Coo.* 5. part. 116. *Olands* case.

A woman Copy-holder during widow-hood sows corn, and before severance, marries, the Lord shall have the crop, and not the husband.

Of

Of the Office and Duty of the Steward.

Co. ſuper Lit. fo. 61. a. b.

STeward in the Latine is called *Seneſchallus*, and is derived from the French word *Sein* a houſe or place, and *Schalc*, an Officer or Governor; ſome ſay that *Sen* is an ancient word for Juſtice, ſo as *Seneſchal*, ſhould ſignifie *Officiarius juſtitiæ*.

As to the word *Steward*, it ſeemeth to be compounded of *Stew* and *Ward*, and is a word of many applications: yet always ſignifieth an Officer of chief account within the place of his ſway. In this place it ſignifieth an Officer of Juſtice, *viz.* A *Keeper of Courts*, &c. therefore for the prevention of many inconveniences, it would be no diſadvantage to Lords to elect and conſtitute ſuch as are exerciſed in the ſtudies of the Provincial Laws of this Commonwealth, and the cuſtoms of Mannors. *Fleta* lib. 2. cap. 26. deſcribes the office of a Steward, and counſelleth Lords of Mannors and Liberties to provide (or elect) their Steward in theſe words, *Provideat ſibi dominus de ſeneſcallo circumſpecto, & fideli, viro provido, & diſcreto & gratioſo, humili, pudico, pacifico & modeſto qui in legibus conſuetudinibusq; provinciæ & officio ſeneſchallæ ſe cognoſcat, & jura Domini ſui in omnibus teneri affectet*, &c. *cujus officium eſt curias tenere* Maneriorum, *& de ſubſtractionibus conſuetudinum, ſervitiorum, reddituum, ſectarum ad curiam, mercata, moledina domini*, & ad viſus Franci-plegiorum, *aliarumq; libertatum Domino pertinentium inquirat*, &c. By which deſcription it is obſerved, that he ought to have a double qualification, *viz.*

Fleta lib. 2 cap. 26.

1. *In Moralibus.*
2. *In Judicialibus.*

1. *In Moralibus*,

1. *In Moralibus*, he must be qualified with these properties, *viz.* Circumspection, Fidelity, Providence, Discretion, &c. which may be reduced to two general heads, to wit, (*Verity* and *Industry*.)

2. *In Judicialibus*, and therein he must be attended with the property of *Knowledge*, as to be expert in the Laws of the Countrey, and the customs of the Mannor, and have ability to instruct and direct the *Bayliffs*, and other ministers in dubious things.

Let us now descend to demonstrate his Retainer into Office, &c.

How he may be retained.

A Lord of a Mannor may by *Parol* retain one to be *Steward* of his *Mannor*, and to hold the *Courts* thereof, as well as a Bayliffe may be, and that by word, and this Retainer shall be as effectual in all points before discharge as the most effectual Institution by *Patent*; yet most commonly they have Patents for their Office. *Co.* 4. 30. and therewith accordeth 8. *Eliz.* Dyer 248. Likewise it was adjudged in the Common Pleas in the *Lady Julian Holmsts case*, that whereas one was generally retained by the Lord of a Mannor by Parol to be *Steward* of a *Mannor*, and to keep his *Courts*, that such Steward may take surrender of customary Tenants out of the Court, or make voluntary admittances, or any other act incident to the office of a *Steward*, for till such Steward be discarged, he is Steward of the Mannor, as well by the Retainer by word, as if he had a Grant thereof by Patent *Leon.* fol. 309.

Co. rep. 4. 30. *Dyer* 8 *Eliz.* 248.

Leon. first part *fol.* 309.

He represents the person of the Lord in many things, for in the absence of the Lord he sitteth in *Court* as Judge to punish offences, to determine controversies, redress injuries, &c. He acts some things in the Lords name, and not in his own name: For if the Steward admit any *Copy-holder*, or by special authority, or by particular custom, license a *Copyholder* to Alien, this admittance and licence shall be made in the Lords name, and the entry in the *Roll* shall be *Quod Dominus per Senescallum admisit, & licentiavit*, &c. *Co.* of *Copy-holds* fol. 143.

Co. 4. of *Copyhold*, *fol.* 143.

He

He must take care to record and enroll all the Conveyances of estates; for it hath been holden by some, That if the Lord in open Court grant a Copy-hold estate and no entry is made thereof in the Court Rolls that the grant is invalid, and that no collateral will make it valid. *Carthrop. fo. 47.* But if the tenant have no Copy, or lose his Copy, the roll of the Court is a good evidence: and if the wills be lost, it is thought clearly it may be supplyed by proof, *ibidem.*

Carth fo. 47.

At every *Court* he is to swear some of the Tenants (which is called the *Homage*) these he chargeth with the *Articles* before mentioned, and upon them they do present: and upon this presentment, the *Steward* is to proceed as upon the presentment in a *Leet*, save onely that (as it is said) the Lord cannot bring an action of debt, but is onely to distrain for the *amerciament* in this Court, 2 *H.*4.24. For by the Common Law he hath no authority to assess *amerciaments* or *Fines* in a *Court-Baron* but the *suitors*, for they are the *Judges* and not the *Steward*. *Leonards rep. first part. fo.* 299.

2 H.4. 24.

Leonards first part. fo. 299.

If the Steward take a bribe, or use partiality in any case depending before him, (of which crime many are too culpable) or if by his *Patent* obliged to keep *Court* at certain times of the year, and fails thereof, the Lord receiving prejudice thereby, (not otherwise) or if he be by his *Patent* obliged to keep *Court* upon demand or request to be made by the Lord, and upon request and demand by the Lord he refuseth; these and the like cases will make him subject to a *forfeiture, Co. of Copy-holds, fo.* 146. *&c.*

How he may forfeit his office.

Co. 4 rep. of Copy-holds, fo. 146. *&c.*

Of the Fees of the Court-Baron.

AS for the Fees of this Court they must differ, and are by Law what they have been by custom; time out of minde. For some take the same *Fees* as are taken in the *County-court*. And other *Courts* take the *Fees* which follow.

The

The Stewards Fees.

For entring every Essoyne	00-00-02
For Entring every action	00-00-02
Every Order entred	00-00-04
Entring a Declaration, *if it be large then more*	00-00-04
Every Process	00-00-04
Entering every plea or answer	00-00-04
Every Continuance	00-00-02
Every wager of Law and entry	00-00-02
Warrants for witnesses and summoning Juries	00-00-04
Every Nonsuit and detraxit	00-00-04
Entering the Judgment	00-00-04
Satisfaction acknowledged	00-00-02
For removing and certifying a cause	00-06-08

The Bailiffs Fees.

For every Summons and entrance	00-00-08
For executing every Process	00-00-04
For every shilling upon Judgment	00-00-01
For summoning the Jury	00-01-00
For summoning of Witnesses upon a Warrant	00-00-04
For every Oath	00-00-02

If there be Attorneys, then their Fees are,

For every cause if it be heard	00-01-00
For drawing the Declaration	00-00-06
For every Court the cause dependeth after he is reteined	00-00-06

See more in the Fees of the County Court.

The Oath of the Bailiff of a Mannor.

YOu ſhall ſwear that you ſhall well and truly ſerve our Sovereign Lord the King, and the Lord of this Mannor, for the year to come, in the Office of *Bailiff* of the ſame Mannor, aud you ſhall duly and truly gather, all ſuch rents, revenues, or other yearly profits as ſhall be extracted out unto you, and therefore you ſhall make and yield up a true account at the end of the ſaid year, and in every thing you ſhall wel and honeſtly behave your ſelf in the ſaid office, during the time aforeſaid. So help you God, &c.

[*The Bayliff muſt be ſworn before the Court end.*

M. Kitchin in his Juriſdiction of Courts, &c.

The form and method of Preſentments (*which are to be drawn by the* Steward) *I ſhall not trouble you with being copiouſly performed by Mr.* Wilkinſon *in his office of* Sheriffs, *fol.* 218, 219, 220, *&c. onely take theſe ſubſequent for methods ſake.*

The finding of the death of a Tenant, and of a Surrender made to the uſe of his Will, with an admiſſion of the Tenant.

HOmagium ulterius præſentant quod A. B. ſenior. tenens hujus Manerii, diem clauſit extremum poſt ultim. Curam. Et quod ipſe idem A. B. ante mortem ejus, ſcil. decimo die Maii anno, &c. ſurſum reddidit in manum Domini hujus Manerii per manum C. D. Cuſtomar. Tenen. ejuſdem Manerii omnia & ſingula Cuſtumar. terr. tenementa

tenementa & hereditament. quæ tenuit de iſto Man. ad opus & uſum teſtament. & ultim. voluntat. ſuæ. Et nunc ad hanc Cur. ven. E. F. filius maximus natu ejuſdem A.B. Et profert hic in Cur. teſtamentum & ultim. voluntat. prædict. A. B. geren. datum, &c. coram G. H. deput. Commiſſar. I. A. in & per tot. Archidiaconat. W. probat. tenor cujus quidem voluntat. quoad Cuſtomar. terr. prædictus, ſequitur in hæc verba, ſcil. Item, Do E. filio meo, &c. prout per dict. teſtamentum & ultim. voluntat. ejuſdem A.B. plenius liquet. Et pet. ex gratia Domini admitt. ad omnia & ſingula præmiſſ. prædict. videlicet, ad duas pec. Cuſtomar. terrarum, jacen. in campo vocat. R. continen. per æſtimation. act. acr. un. per. terr. jacen. prox. terr. vocat. D. ex parte Auſtral. & terr. &c. quas quidem duæ per. terr. præfat. A.E. nuper habuit & accepit ſibi & hæred. ſuis ex ſurſum reddition. S. T. & M. ux. ejus ad Gener. Cur. cum leta hic tent. die Jovis xviii. die Auguſt. anno, &c. plenius liquet, cui quidem E. ſeiſinam inde ſibi deliberat. Tenen. ſibi & hæred. ſuis ſub conditione & modo & forma prout in ult. voluntat. ſpecificat. per Virgam ad voluntat. Domini, per ſervic. & red. 2s. annuatim & ſerv. Cur. (ſalvo jure, &c.) & dat. Domino pro fine, &c. & fecit fidelitatem, &c.

The finding of the death of a Tenant.

Item dicunt ſuper ſacrum ſuum, quod A. B. poſt ult. Cur. obiit ſeiſit. de & in duabus rodis terr. jacen. in quodam Pightel voc. R. tent. de hoc Maner. per fidelitat. & annual. redd. 4d. annuatim, & quod E. F. eſt filius ejus & proxim. hæres ipſius A.B & plenæ ætatis, qui nunc inde fecit domino fidelitatem.

Pains found and ſet upon Tenants for want of ſuit of Court.

ITem dicunt ſuper ſacr. ſuum, quod I. W. S. *&* I. I. *ſunt tenentes per Copiam rotulis Cur. hujus Maner. & debent ſect. Cur. & ad hunc diem fecer. default. ideo quilibet eorum in miſericordia* 6d.

The like.

ET quod A. B. *&* C. D. *ſunt tenentes Domino Maner. per dimiſsion & debent ſectam huic Cur. & nunc ad hunc diem fecer. default. ideo uterque eorum ſunt in miſericordia prout patet ſupra eorum capitib.*

The like.

ET quod E. F. G. H. *&* I. K. *ſunt liberi tenentes iſtius Maner. & debent ſect. Cur. Et nunc ad hunc diem inde fecer. default. ideo quilibet eor. ſunt in miſericordia prout ſupra caput.* 6 d.

The Preſentment of a Surrender made out of Court into tenants hands, with the admiſſion of the tenant accordingly.

ET quod L. M *junior extra Cur. poſt ult. Cur. ſurſ. reddidit in man. Domini iſtius Maner. per man.* N. O. *Cuſtom. tenen. hujus Man. in præſentia* L. M. & P. R. *ſimiliter Cuſtom. tenen. hujus Maner. omnia terr. & tenem.*

Cuſtumar.

ſt. ejus cum pertin. quæ tenuit de Maner. iſto ad opus & uſ.
l. ſenior hæred. et aſſign ſuor. & pet. ex gra. Dom. admitti
nen. ad omnia & ſingul. præmiſſa, videlicet, ad un. par-
l. paſt. contin. dimid. acr. ſive plus ſive minus, cum pertin.
ter parcel. un. Cuſtumar. Tenementi & undec. acrarum
n. voc. C. Tenement, in C. prædict. quæ prædict. L. M.
per cepit ſibi & hæred. ſuis poſt ſurſum redditionem fact.
quendam S. T. ad Cur. general. cum let. ibid. tent. die
næ proxim. poſt, &c. plenius liquet. Et admiſſ. eſt inde
nens, & ſeiſin. inde ſibi eſt deliberat. Tenen. ſibi, hæred.
aſſign. ſuis per Virgam, ad voluntatem Domini, ſecund.
ſuetud. Maner. &c. per ſervic. & conſuetud. &c. Et
l. 6d. per tres ann. ſalvo jure, &c. Et dat. Domino fin.
n. Et fecit ei inde fidelitatem, &c.

The finding a Surrender made into Tenants hands, to the uſe of a mans Will.

T quod A.B. Cuſt ten. iſtius Maner extra Cur poſt ult.
Cur. ſcil. 24. die Maii. ult. præterit. ante 7it hujus Cur.
ſum reddid. in man. Domini hujus Maner. per man. C. D.
ſtm. tenen. ejuſdem Maner. in præſentia I. A. & S. A.
il. Cuſtom. tenen. præd. Maner. omnia Cuſtom. ter. &
am. ſua tent. de Maner. iſto ad opus & uſum Teſt. & ul-
luntat. ejus.

The finding of the death of a Tenant, and of the lands, and that the yongeſt ſon is next heir, according to the cuſtom, &c. with his admiſſion.

T quod W. D. Cuſtumar. tenens iſtius Maner. poſt
ult. Cur. obiit, ſolus ſeiſit. de & in un. tenemento in-
. voc. L. continen. per eſtimat. quinque acr. jacen.

in F. *quod prædict.* W. *nuper cepit ſibi & hæredibus ſuis ſurſum reddition.* I. S. *prout ad Cur. hic tent. die Lunæ Matutino Sancti Johannis Baptiſt. anno, &c. patet. Et dat. & in quinque acr. Cuſtumar. terr. cum pertinent. tenent. de eodem Maner. voc.* B. *quæ, &c. Et quod* W. D. *filius junior ejus eſt proximus hæres ejuſdem* W. *ſecund. conſuetud. hujus Maner. qui nunc ven. & petit ex gratia Domini admitti ad præmiſſa cum pertinen. ſecundum conſuetudin. Maner. prædict. & admiſſus eſt inde tenens cui ſeiſina inde ei conceſſ. eſt per Virgam ad voluntatem Domini, ſecuudum conſuetudinem prædict. Maner. per ſervic. & conſuet. & redd. pro quinque acris, &c. ad* 4 s. *per annum & pro al. quinque acr. prædict. terr. ad redd.* 5s. *per annum, &c. ſalvo jure, &c. Et dat. Domino profine, &c. Et fecit Domino fidelitat. &c.*

The finding of a Sale made of Freehold lands, with a diſtreſs to the Bailiff to diſtrain for want of taking it up.

ITem *dicunt ſuper ſacrum ſuum, quod* I. A. *poſt ult. Cur. vendidit* R. A. *un. tent. voc.* T. *cum pertin. contin. per æſtimationem, duas acr. quæ tenuit libere de iſto Maner. in libero Socag. per fidelitatem & annualem reddit.* 3d. *per annum, & ſect. Cur. qui quidem* R. A. *non ven. &c. ideo præcept. eſt Ballivo quod diſtringat præfat.* R. A. *quod ad proxim. Cur. fidelitat. faciat,* &c.

The acknowledgment in the Court of a Legacy paid.

ET *quod* I B. *in plena Curia, cognovit ſeipſum ſatisfact. & plenar. ſolut. per* N. B. *fratrem ſuum de le-*

gato ejus 10l. eodem I. B. per teſtament. & ult. volun-
at. patris ejus legat. ſecundum formam & effectum & ve-
am intentionem dict. teſtamenti, & ult. voluntatis patris
jus.

A Preſentment of a Surrender, made out of Court, with the admiſſion of the tenant.

Ulrat. præſentant ſuper ſacrum eorum, quod I. S. Cuſto-
mar. ten. hujus Maner. extra Cur. ſcilicet decimo
ie Maii, anno, &c. ſurſum reddidit in manum Domini
ujus Maner. per man. S N. Cuſtumar. tenen. hujus
Maner. in præſentia I. G. & G. F. Cuſtom. ſimiliter te-
ens hujus Maner. omnia terr. & tenement. Cuſtomar. cum
ertinent. quæ de hoc Maner. tenuit ad opus & uſ. R. K.
& hæred. ſuorum & aſſignat. imperpet. qui uunc ven. hic
in Cur. & pet. ex gratia Domini admitt. ad omnia &
ingula præmiſſ. prædict. cum pertinen. videlicet. ad un.
Meſſ. decaſſ., cum quibuſdam terr. in C. contin. per æſti-
mation. iv. acr. ſive plus ſive minus, cum pertinen. parcell.
de un. Cottag. & tres acr. terr. de tenemento de H. cum
ertinen &c.

quæ idem I. S. nuper cepit ſibi hæ-
redibus & aſſign. ſuis ad Cur. tent. & Maner. prædict.
poſt ſurſum redditionem inde fact. per I. C. prout ad cur.
ro Maner. prædict. tent. die Jovis xvii die Maii, anno,
&c. plenius liquet & apparet. Et admiſſus eſt inde Te-
nens cui ſeiſina eſt inde conceſs. hujus ſibi, hæred. & aſſig.
ſuis per Virgam ad voluntat. Domini, ſecund. conſuetud.
Maner. prædict. per ſervic. &c. & redd. iis. per annum
ſalvo jure, &c. Et dat domino pro fine, &c. Et fecit do-
mino fidelitatem, &c.

A preſentment made in Court of an agreement made between a ſon and his mother, touching her Dowry, and the mothers releaſe of her Dower.

ET poſtea in Cur. iſta ven. prædict. N.B. & E.B. vid. relict. ejuſd. R. B. & nunc intelligent. dant. Cur. quod inter ſeipſos conſenſ. ſunt de & pro dote ipſius E. B. in præmiſſis ſecund. conſuetud. Maner. prædict. Unde prædict. E. B. præſens hic in Cur. remittit & relaxat in man. Domini prædict. omnem Dotem ſuam & titul. dotis & demand. quæ eidem E. B. pertinent, ſecundùm conſuetudin. Maner. de & in omnibus & ſingulis terr. & tenement. Cuſtom. de Maner. iſto. tent. quæ nuper fuer. dict. R B. quondam viri ſui ad opus & uſum N. B. (in plena & pacifica poſſeſſione ſua modo exiſten.) & hæred. & aſſign. ſuorum imperpet. ita, (videlicet) quod eadem E. B. abhinc non exigere, clamare & vendicare poterit ullam dotem, de, in, vel ad præmiſſ. vel aliquam inde parcell. ſecund. conſuetudinem Manerii prædict. Sed de ea ac de & ab omn. action. & demand. talis dotis de & concern. præmiſſ. per irrotulament. harum imperpet. præcluſ. & excluſ. erit. Et pro hac remiſſione & relaxatione, prædict. N. B. eidem E. B. reddit 210 l. legalis monetæ Angliæ, & dedit Domino pro fine, &c. pro relaxatione prædict. &c.

A pain ſet for an incroachment.

Jurat. dic. ſuper ſacrum eorum quod, T. G. incrochiavit foſſat. ſuo ſuper Comm. H. G. verſus le milking yard de Meſſuag. ſuo, Ideo eſt in miſericordia prout patet ſuper caput ejus.

A pain ſet for the amending of the ſame, &c.

Et præcept. eſt ei ad incroachiament. prædict. reformand. citra Feſtum S. Michaelis Arch. proxim. ſequen. ſuper pen. prout ſuper caput ejus.

Ad

Ac etiam dic. quod S. A. *forisfecit pen. de* 5 *s. ſuper ipſ. ult Cur. impoſit, quod ipſe poſt ult. Cur. & poſt notic. ſibi in contrar. per Balliv. hujus Maner. dat. permiſit porcos ſuos egredi & depaſcere ſuper Comm. paſtur. H, cont. mandat. inde ſibi incontrar. dat.*

The finding of a pain forfeited.

A Preſentment for an offence done, and a charge to the Jury to enquire, and further day given for giving their verdict.

Cum W. S *&* G. B. *Domini Maner. de* R *un Querc. nuper creſcen. ad Occident. part. cujuſd. le Pightil voc.* B. *Pightel Dominical. terr. hujus Maner. in tenur. Cuſtomar.* I. W. *nuper ſuccid erunt, & ad hanc Cur. ad inquirend. per homagium in onere dat. fuit & illos ad red.-dend. Verdict. inde de & ſuper premiſſis, homag. prædict. tempus petunt pro veredict. eorum reddend. uſque proxim. Cur. quia nondum inde adviſat. ſunt, &c. Et habent. &c.*

I. A. *tenens Cuſtumar. hujus Maner. pet. ad finem admitti pro reſpectu ſervic. Cur. faciend. & admiſſus eſt pro* 4 *d.*

A fine deſired for reſpite of ſuit to be done.

Cum ad ult. Cur. in onere dat. fuit homag. ad inquirend. & reddend. veredict. eorum de & concernen. ſucciſion. un. Querc. nuper ante tunc creſcend. ad Occident. part. cujuſdam le Pightell voc. B. Pightell dominical. terr. hujus Maner. in tenur. F. W. per W. S. & G. B. Domin. de Maner. de R. nuper ante tempus illud ſucciſ. Et ad Cur. eandem dies ulter. dat. fuit uſque hunc Cur. Jurator. hujus Inquiſitionis nunc dic. ſuper ſacr. eorum quod tam per teſtimonium R. A *un. ten. hujus Maner. ad hoc*

Seci-

ſpecialiter jurat. quam de cert. ſcientia aliquorum homag. nunc jurat. quod præfat. F.W. & omnes illi cujus ſtatum prædict. F. habet in prædict. figell. Cuſtomar. *à tempore in tempus per ſpacium ſexagint. annorum nunc ult. elapſ. quiete & ſine contradictione. ſuccederunt, ceperunt, & aſportaverunt & gaviſi fuer. omnibus boſcis à tempore in tempus per ſpatium ſexagint. annorum ſuper partem viæ creſcent. & ad Occident. parte ejuſdem Pightel: & quod ſepes prædict. Pightel, per omne tempus prædictum poſit. fuer. & adjecer. eidem Quercui. & quod major pars craſſitatis Quercus illius extendebat ſe verſus eandem viam. Et ulterius dicunt, Quod nunquam fuit aliquod Foſſatum ubi quercus creſcebat. Et ulterius dic. per teſtimonium ejuſdem R. A. quod prædict. R. A. olim, habens in occupatione ſua le Pightel prædict. à tempore in tempus per diverſos annos. collegit & habuit glandulas Quercus prædic. abſque aliqua contradictione.*

Ad hanc Cur. ven. I. W. & R. ux. ejus & præſentant hic in cur. in propriis perſonis ſuis. Et præfat. R. per ſeneſchall. cur. ejuſdem ſola ac ſecreta examinata & conſentiens ſurſum reddider. in man. Domini ejuſd. Maner. & remiſer. relaxaver. & nuper pet. pro ſe hæredib. & aſſig. ſuis quiet. clamaver. ad opus & uſum S. N. *heres ſuorum omne jus ſuum, titulum, ſtatum, uſ. intereſſe & demand. quemcunque quæ unquam habuer. nunc habent, ſeu quoviſmodo in futur. habere poterunt, vel illi, ſeu alterum eorum habere poterint ſecundum conſuetud. ejuſdem Maner. de in vel ad ſeptem acr. terr. & unum Meſſuag. parcell. tenementi voc.* S. *ac de in & ad duas acr. terrar.* Cuſtumar. *tenementi de* W. &c. *quæ quidem præmiſſa prædict.* S. *ſuper habuit & cepit & nunc tenet ſibi & hæredib. ſuis poſt ſurſum redditum inde per* I. W. *fact. prout ad Cur. ibidem tent. die Mercurii xxi. die Martii, anno, &c. plenius ad largum patet ad opus & uſum prædicti* S.N. *& hæred. ſuorum adeo, (videlicet) quod neque prædict.* I. W. & R. *nec alter eorum, nec hæred. eorum, nec hæred. alter. eorum abhinc exigere, clamare vel vendicare poterit ullum ſtatum, jus, titulum, dotem & demand. inde habend. abhinc omnino præcluſus & excluſus eſt per hanc præſent. ſurſum reddition, remiſſion. & relaxation. prædict.* S. *dat fin. Domino, &c.*

A

A Surrender of Copy-hold in Court, with the admiſsion of the tenant accordingly.

AD hanc Cur. ven. A.B. gen. Cuſtomar. Tenens hujus Maner. & præſens hic in Cur. ſurſum reddidit in Manus Domini ejuſdem Maner. duas acr. & dimid. terr. jacen. in duabus pec. in C. ſive plus ſive minus, unde prior pars jacet inter, &c. ac alt. per cont. per æſtimat. dimid. acr. & jacet, &c. quæ quidem duæ acr. & dimid. præd. A. B. nuper in cur. cepit ſibi hæredibus & aſſig. ſuis poſt ſurſum redditionem inde fact. per J. W. prout ad cur. hic tent. die Vener. xvi die Maii, anno, &c. plenius liquet, ad opus & uſum J. W. & R. ux. ejus & hæred. ipſius J. W. quiquidem J. W. & R. præſen. hic in Cur. ex gratia Domini petunt admitti ad prædict. duas acr. & dimid. terr. ſecundum formam & effect. ſurſum redditionis prædict. & inde admiſſi ſunt tenentes, quibus ſciſin. inde conceſſ. liben. prædictis J. W. & R. & hæredibus ipſius J. W. de Domin. Maner. prædict. per Virgam ad voluntatem Domini ſecund. conſuetudin. Maner. per ſervic. &c. & redd. ii s. per annum ſalvo jure, &c. & dat domino, pro fine, &c. Et præfat. J. W. fecit Domino fidelitatem, &c.

A Surrender, and Leaſe made in Court, with the examination of the wife.

ET poſtea ad hanc Cur. ven. prædict. I. S. & M. ux. ejus, & hic præſens in Cur. & prædict. M. ſola & ſecreta examinata per ſeneſchall. ejuſdem Cur. & conſentiens

tiens ſurſum reddider. remiſer. & relaxaver. in man. Domin. Maner. prædict. tot. jus, ſtat. tit. poſſeſſion. Dot. & demand. illor. præd. I. S. & M. *de, in, & ad omnia & ſingular. præmiſſ. prædict. cum appertinent. ad opus & uſum prædict.* R. K. *& hæred. & aſſign. imperpet.* (*nunc in plena & ampla poſſeſſion. exiſtent. ita quod neque prædict.* I. S. & M. *vel aliquis eorum abhinc requirat, clamet & mandet ullum jus, titulum, dotem aut demand. de, in, vel ad præmiſ. aut ullam inde part. aut parcell. ſed ab omni actione, jure, titulo, dote aut demand. hujus irrotulatione excludentur. & prædict.* I. S *pro remiſſion. & relaxat. prædict. dat. Domino pro fine, &c.*

A Surrender of Lands made in Mortgage, upon condition for the payment of mony, with the admiſsion of the Mortgage by her Attourney, and the Fealty reſpited.

ET *immediate poſt præd. cur. præd.* N. B. *præſens in Cur. ſurſum reddidit. in man. Domini præd. per man. ſeneſchal. Manerii præd. un. pec. terræ contin. per æſtimation. duo acr. terr. arabil. jacen. inter terr. Manerii* R. *nuper de* N. B. *de parte occident. ter. & una cum viis & ſervit. eidem ſpectant. & uſitat. quæ quidem pec. terr.* R. B. *pater prædict.* F. *cujus hæres ipſe eſt nuper* (*inter alia*) *habuit ſibi, hæred. & aſſign. ſuis poſt ſurſum reddition. inde fact. per* W. B. *&* E. *ux. ejus, prout ad Cur. general. cum Let. ibidem tent. die Jovis prox. poſt, &c. annum, &c. li-*

quet

quet ad opus & usum F. D. un. filiarum N. D. gen. & hæred. & assign. ipsius F. sub hac forma & conditione quod si præd. N. B. hæred. execut. & administrat. sui vel aliquis eorum solvent vel solvi facerint eidem F. D. hæred. executor. administrator. & assign. suis, apud Domum Mansional. ejusdem R. B. in H. in Com. Ebor. gen. summ. xxl. bon. &c. in vel super xxviii diem Octobris prox. sequent. post titulum hujus Cur. quod tum sursum reddition. prædict. vacua erit & nullius effect. seu virtutis. Et quod tunc etiam licit. erit eidem N. B. hæred. & assig. suis re-intrare in dict. pec. terr. & eandem prout in priore stat. suo rursum habere, repossidere & regaudere, prædict. sursum reddition. vel aliquo in contrar. non obstant. Et super hoc prædict. F. per C. W. Attorn. suum in hac parte admiss. est inde tenus. & seisin. inde eidem F. hæred. & assign. suis sub conditione prædict. conciss. & modo & forma prædict. per virgam ad voluntatem Domini, secundum Consuetudin. Maneriii prædict. per servic. &c. salvo jure, &c. Et dat Domino pro fine. &c. Et fidelitas respectuatur quousque, &c.

A Surrender of Lands made presently in Court.

ET postea eadem Cur. sedcn. prædict. F. W. præsens in Cur. sursum reddidit in man. Domini ejusdem Man. Clauſ. prædict. contin. per æstimation. quinque acr. terr. voc. L. ad opus & usum C. W. fratris ejus, & hæred. & assign. ejusdem C. cui quidem C. seisin. inde concess. habend. sibi hæredibus & assignat. suis per virgam advoluntat. Domini secundum consuetudin. ejusdem Manerii per servit. &c. salvo jure, &c. Et dat Domino

pro

A ſurrender may by one to his mother of lands for life, the reverſion to the Son again and heirs.

pro fine, &c. Et fecit inde Domino fidelitat. Et idem F. W. præſens hic in Cur. ſurſum reddit in man. Domini per man. Seneſchall. ejuſd. Maner. prædict. ſeptem acr. terr. in un. Clauſ. modo in duas partes ſeparat. cum ſepe & foſſar. ad opus & uſ. J. W. vid. matris ejus, & aſſign. ſuarum in forma prædict. pro termin. vitæ natural. ipſius J. W. cui quidem J. W. & aſſignat. ſuis ſeiſin. inde conceſſ. in forma prædict. reverſion. inde eidem F. W. hæred. & aſſignat. ſuis per Virgam, &c. ad voluntatem Domini, &c. ſecund. conſuetud. Maner. prædict. ſalvo jure, &c. Et dat Domino pro fine, &c. & inde fecit Domino fidelitatem, &c.

A Releaſe of Land made in Court.

AD hanc Cur. ven. S. B. & præſens in Cur. ſurſum reddidit, remiſit & relaxavit in man. Domini ſecundùm conſuetudin. iſtius Maner. tot. jus ſuum, titulum ſtat. poſſeſſionem, intereſſe & demand. de & in omnibus illis parcell. terr. parcell. de Orchard ipſius N. voc le old, ſive further Orchard, prox. adjungen. le Pightel ſive clauſ. paſtur. ipſius S. vocat. le Bean-cloſe, prout nunc ſeparat. at prædict. le Pightel ſive clauſ. cum le door ſtakes poſit. ſuper frontem foſſat. dicti le Old Orchard, od opus & uſum N. B. fratris ejus (in plena & pacifica poſſeſſione exiſten.) & hæred. & aſſign. ſuis imperpet. ita, viz. quod nec ipſe S. nec hæred. ſui abhinc aliquid jus, titulum, ſtat. clamend. vel demanda in prædict. per. ſerr. vendicare exigere, vel clamare poterint. Sed ab omni actione, jur. titul. ſtat. uſ. Intereſſe & demand. inde habend. abhinc omnino præcluſ. & excluſi ſint & quilibet eorum in perpet. præcluſ. & excluſ. erint per harum præſent. irrotulation. Et præd. N. pro prædict. Remiſſion. & relaxatione dat pro fine Domino, &c.

A

A Leaſe made by the Lord of parcel of his Lands.

AD hanc Cur. Dominus hic in plen. Cur. ad firm. dimiſit I. A. un. Gardin. contin. dimid. Rod. jacens, &c. & dimid. acr. terr. in F. de terr. Dominical. Maner. habend. ſibi, Executor. & aſſign. ſuis pro termino quinque annor. proxim. ſequent. poſt titul. hujus Cur. ſolvend. inde annuatim pro quolibet anno duran. termin. prædict. ad Feſt. &c. Et dat pro fine Domino, &c. Et dominus inde fecit fidelitatem, &c.

The Admiſſion of the yonger Son to Lands according to the Cuſtom.

AD hanc Cur. ven. E. F. filius jun. & proximus hæres I. W. defunct. & pet. ex gratia Domini admitti tenen. ad un. parcell. terr. continens in longitudine vigint. pentic. & in latitudine tres pedes, nuper parcel. un pec. terr. Cuſtumar. voc. B. contin. per æſtimation. tres acras terr. in qua dicta parcell. foſſat. nuperime fact. eſt. quæ quidem parcell. terr. I. W. Avus præfat. F. W. nuper habuit ſibi, hæred. & aſſign. ſuis ex ſurſum redditione J. A. prout ad Cur. pro Maner. prædict. tent. xxiv. die Maii, anno, &c. liquet, quod jus & hæreditat. ſua quia præd. I. W. inde ſeiſ. obiit & prædict. parcel. terr. per & poſt mortem præfat. I. W. ſecundum conſuetud. Maner. prædict. ad prædict. F. W. patrem prædict. F. W. deſcendebat. Et à prædict. F. W. patre eius parcell. prædict. ad præfat. F. W. Juniorem deſcendebat. & inde admiſſus eſt tenens cui ſeiſin. Conceſſ. habend. ſibi, hæred. & aſſign. ſuis per virgam ad voluntat. Domini. ſecund. conſuetud.

consuetud. Maner. prædict. per rod. 2d. &c. & servic. &c. salvo iure, &c. Et pro fine dat Domino, &c. Et Dom. fecit fidelitatem, &c.

A License by a Lord of a Mannor to a Copy-holder to pull down houses standing on Copy-hold lands.

TO all and singular Surveyors, Bayliffs, and other Officers whatsoever within my Mannor of *Skipton*, in the County of *T.* I, *E. L.* of B. send greeting: Whereas I am informed, that *H. G.* hath lately purchased of *T. C.* certain old houses within my said Mannor being Copy-hold, and that the said *T. C.* hath surrendred the same houses, to the use of the said *H. G.* and his Heirs, according to the custom of the said Mannor: Now my will and pleasure is, and I do by these presents give and grant unto the said *H. G.* his heirs, and assigns, full license and absolute liberty, power and authority to pull down, and to take and carry away the said houses, and every of them, or any part of them to and for the use of the said *H. G.* and his heirs and assignes from time to time as to him or them or any of them shall seem meet; Any custom or usage whatsoever within the said Mannor (if any such be, or heretofore hath been had or used) to the contrary thereof in any wise notwithstanding: And I will and command you and every of you, that the said *H. G.* and his assignes may quietly have and enjoy the full and whole benefit of my said grant and license without any denial, let, or impediment of you or any of you. In witness whereof, &c.

A

A Letter of Attorney to ſurrender a Copy-hold.

BE it known unto all men by theſe preſents, that I, *A. B.* one of the cuſtomary or Copy-hold tenants of the Manor of *H.* in the County of *M.* have made ordained, conſtituted, and appointed; and by theſe preſents, do make, ordain, conſtitute, and appoint, my truſty and well beloved friends *C. D.* and *F. F.* two cuſtomary or Copy-hold Tenants of the Mannor aforeſaid, my lawful Attourneys and Attorney jointly and ſeverally for me, and in my name jointly and ſeverally by lawful ways and means, to ſurrender into the hands of the Lord or Lords, Lady or Ladies, Farmers, owners, or proprietors of the ſaid Mannor of H. aforeſaid, all the cuſtomary or Copy-hold Meſſuage or Tenement, with the appurtenances, ſcituate, lying and being in *H.* aforeſaid, parcel of the Cuſtomary lands of the ſaid Mannor: And all my eſtate, right title intereſt claim, poſſeſſion, and demand, of, in, to, and out of every part and parcel thereof, to the uſe and behoof of *T. W.* his heirs, and aſſigns for ever; and I the ſaid *A. B.* do hereby give and grant unto them, the ſaid *C. D.* and *F. F.* jointly and ſeverally, and to either of them, full power and authority to do, execute, and perform any other lawful act and acts whatſoever, needful or neceſſary to be done in, for, or about the better effecting of the premiſſes, as fully and amply to all intents and purpoſes, as I my ſelf might do in perſon or otherwiſe, and whatſoever my ſaid Attourneys, or either of them, ſhall jointly or ſeverally do in the premiſſes, according to the true intent and meaning of theſe preſents; I do hereby allow of, ratifie, and confirm. In witneſs, &c.

The Grant of a Stewardſhip.

TO all to whom theſe preſents ſhall come *A. B.* Knight, ſendeth greeting. Know ye, that I the ſaid *A. B.* for divers good cauſes and conſiderations me thereunto moving, have, for me, my heirs and aſſignes, given and granted, and by theſe preſents do give and grant unto *John Preſton* of *B.* Gent. the Office of chief Steward, and the place and execution of the Stewardſhip of my Mannor of *Skipton* in *Craven* in the County of *York*. And the holding and keeping of all Courts, Court-Leets, Views of Frank pledg, and of all other Courts of what kind ſoever the ſame be, to the ſaid Mannor belonging or in any wiſe appertaining. To have, hold, execute, and in oy the aforeſaid office of chief Steward, and the place and execution of chief Stewardſhip, and the holding and keeping of all manner of Courts uſually held and kept within the ſame; together with all maner of fees, wages, rewards, profits advantages, and emolumen's, to the ſaid office of chief Steward or Stewardſhip of the ſaid Manor or Lordſhip belonging or appertaining, or at any time heretofore accuſtomed and uſed to be paid, rendred to, or received, by the chief Steward or Stewards there for the time being, for, or by reaſon of the ſaid office of chief Steward or Stewards there for the time being, from henceforth, for and during the natural life of him the ſaid *John Preſton*, In witneſs, &c.

THE

THE COURT OF Pypowders.

The definition of it, what it is, and why it was instituted, together with its jurisdiction.

THis word *Pypowder*, hath its definition from the Fench words *pied*, i. *pes*, and *puldreux*, i. *pulverulentus*, or as *Skene de verb. significat. Pedc pulverosus*, dusty feet, a Vagabond, Pedler, or Scotch Merchant, who hath no certain dwelling place, and by whom Fairs are usually kept, to whom Justice should be summarily ministred within three flowings and ebbings of the Sea; or as some define it to be *curia parvi ponderis*, and this is to be *pedis pulverizati*, and so the Lord chief Justice *Anderson* did use to define it, for the speed and celerity there used, in the present dispatch of business. *The definition of* Pypowder.

This Court of *Pypowders* is a Court of Record inſtituted and ſet up for the ſpeedy and ſudden diſpatch of matters and differences ariſing in a *Faire* or *Market*, and for the ſpeedy doing of Juſtice, and this in caſe of neceſſity, for the ſole benefit of Tradeſmen and Merchants, and for the preſent determination of all doubts and queſtions there then ariſing, and that only upon ſales and contracts had in the Faire and Market, during the time thereof, but not for matters acted and done before, or at any time after the Faire or Market held; but for matters happening and ariſing *in pleno Mercato*, or *in plena feria*, 8 *H.* 7. *fol.* 4. *b.*

8 *H.7. fol. 4. b.*

This Court is of two kinds, *viz.*

1. Either by preſcription, and this is an abſolute juriſdiction.
2. To be in a Faire and Market, and to this a Court of *Pypowder* is incident.

And here two things are requiſite, *viz.*

1. This Court is to be for matters ariſing in the Faire or Market.
2. The matters to be determined there within, and during the continuance of the Faire and Market: and this appears to be ſo by the Statutes of 17 *E.* 4. *cap.* 2 & 1 *R.* 3. *cap.* 6. and this is in a Court of *Pypowders* annexed unto a Faire or Marke: But in a Court of *Pypowders* which one hath by Preſcription, there they may hear and determine matters done before, *Folſtrod.* 2. *part. fol.* 21. Goodſon *againſt* Duffhil, *Croo.* firſt part. *fol.* 33.

St. 17. E. 4. c. 2. & 1 R. 3. c. 6.

Bolſtrod. 2 part. f. 21 Cro. 1 part. fo. 33. Preſcription. 13 E. 4. fo. 8. b.

For in caſe of Preſcription ſuch a Court may well be without a Faire, from time to time, and from day to day, 13 *E.* 4. *fol.* 8. *b.* it was ſo adjudged in point of a Writ of *Error*, where the error aſſigned to reverſe a judgment given *in curia pedis-pulverizati*, there alledged to be held, *ſecundum conſuetudinem ejuſdem civitatis*; the error inſiſted upon, was, becauſe he ſhewed not, that the matter upon which the action was brought, was *in pleno Mercato*, or *in plena feria*, it is there expreſly adjudged, that this was no

Error

Error, becauſe the ſame was layd to be held *ſecundum conſuetudinem civitatis*; ſo that ſuch a Court may be held without a *Faire* or *Market*, and that the King may well grant ſuch a Court to be held from day to day, and ſuch a Court may well be held by Cuſtome without any Fare or Market, and its proper denomination is from the ſpeedy diſpatch of buſineſs there; ſo that the juriſdiction of this Court held by preſcription, may be extended unto all contracts and bonds, to actions of treſpaſs, and actions upon the Caſe, and to this purpoſe was the caſe, between *Chambers* Plaintiff againſt *Pert* defendant, *Hill.* 33 *Eliz. Rot.* 124. where an action of treſpaſs for an aſſault and battery was brought in a Court of *Pypowders*, for an aſſault done long before, and well maintainable as it was held.

Hill. 33 *Eliz. Rot.* 124.

But this Court held by preſcription doth much differ from the ordinary Court of *Pypowders*, and that by many circumſtances: This Court may be thus uſed and held, *viz.*

1. Either by way of Grant.
2. By way of Confirmation.

Pypowders by way of grant & confirmat.

And being thus held, it differs from the ordinary Court of *Pypowders*, which is incident to every Faire, as appeareth by 12 *H.* 7. *fol.* 16. *b.* and 13 *H.* 7. fol. 19. And the ſame Court is thus incident to a Faire, and that of common right, as appears, 13 *E.* 4. *fol.* 8. *b. Old book of Entr. fol.* 168. *Fit. dette en Gailor. placito*, 1. *f* 18. *Fit account in Execution placito* 3. If one will declare upon a matter in this Court in *Faire*, there in ſuch a caſe of neceſſity he ought to ſet forth in pleading, that the ſame was done *in plena feria*, or *in plena Mercata*, otherwiſe not good. But it is not ſo in caſe where a man hath, and holdeth this Court by preſcription, in which Court they may hear and determine actions upon the caſe for words, but not ſo in an ordinary Court held during the time of the Faire: And by 6 *E.* 4. *fo.* 3. *b* If a man in his Faire hath this Court, here the Steward is Judg and no other, for there are no Suitors; and for a Judgment given in this Court a Writ of *Faux judgment* lieth not, but a Writ of *Error*, and with this agrees 7 *E.* 4. *fol.* 23. And where one claims to hold this Court by preſcription, and alſo by Charter; if the Charter be not contrary to the preſcription, this ſhall be good by way of Confirmation.

12 *H.* 7. *fo.* 16. *b.* 13 *H.* 7. *fo.* 19. 13 *E.* 3. *fo.* 8. *b. Old book of Entr.* 168. *Fit. dette, en Gailor, pl.* 1. *fo.* 18. *Fit. account in Execution pl.* 3. 6 *E.* 4. *fo.* 3. *b. The Steward is Judge.* 7 *E.* 4. *fo.* 23.

As a Court-Baron is incident to a Manno, ſo a Court

This Court is incident to a Fare or Market, and by a grant of them it passeth, 19 H. 8. Brookes case, fol. 2. pl. 7. & Brook tit. incidents. pl. 34. 2, 3. Phil. & M. Dyer. fol. 133. pl. 80. Co. 10. f. 73

of *Pypowders* is incident to a Faire, and by the Grant of the *Faire* this doth pass, and with this accords, 19 *H. 8. Brooks case, fol. 2. placito 7.* and *Brook, tit. incidents placito,* 34. and not to be severed from them, neither by grant nor by reservation, 2 & 3 *Phil. and Mar. Dyer fol.* 133. *pla* 80. *Error sur iudgment in Court de Piepowders port le defendant,* errors signed, *que defendant ne fuit amercy,* allowed, *pur error, car coment soit pur advantage le defendant uncore concern le Roy & son profit, iudgment fuit sur contract fait in le faire devant, & nul plaint donques entered,* resolved *que ambiadeux fuerent errors.* Jenkins, fo. 211. cent. 5. casus 48. The Plaintiff in a Court of *Pypowder* doth count of a contract made in the last Faire before, where no plaint was then begun, nor any judgment of Amerciament of the Defendant then given, and this was held a good Error in both by all the Justices of both Benches, *Mich.* 42. and 43 *Eliz. B. R. Co.* 10. *fo.* 73. in the case of the *Marshalsea,* where *Hall* brought a Writ of Error against *Jones,* to reverse a Judgment given against him in the Court of *Pypowders* of the Market in the City of *Gloucester* for that *Hall* had published slanderous words of him, (*viz.*) Mr. *Jones and his Clerk have by color of his office, extorted and gotten* 300 *l.* per annum *by unlawful means, for many years together, above their ordinary fees, for proving of Testaments and granting of Administrations,* the which judgement was reversed for two Errors, *viz.*

1. Because words did not concern any matter touching the *Market,* and therefore the Court had no jurisdiction of it; but if one slander any with Trades, and Merchandizeth in the Market, in any thing which concerns his trade, there an action for this well lyeth.

2. It appears in the Court, that the words were spoken before the *Market,* and not during the time of the *Market:* for as this Court hath no jurisdiction, but in matters concerning the *Market,* so the same Court hath no jurisdiction, for matters concerning the *Market,* unless they were acted and done during the time of the Market. Bract. lib. 5. fo. 335. *a. De brevi de recto.* 1. *de diversitate, et divisione summonitionis,* It is there said, *per quindecim dies, ante diem quo comparare debeat summonitio,* ought to be, *Et talis summonitio,*

Bract. l. 5. f 335. De brevi de recto 1.

nitio dici debeat legitima. Si minus ſpatium contineat, poſſit illigitima judicari; niſi ob cauſam legitimam, minus tempus ſtatuatur, ut propter perſonas, qui celerem habere debeant iuſtitiam, ſicut ſunt Mercatores, quibus exhibetur juſtitia, Pepoudrous, by the Statute of 17 E. 4. *capite* 2.

17 E. 4. c. 2.

And in this Court no Steward, or other Miniſter, ſhall hold plea upon any action, at the ſuit of any perſon unleſs the Plaintiff or his Attourney, in preſence of the Defendant, do ſwear that the contract in the Declaration, &c. was had and made, during the time of the Faire, and within the juriſdiction of the Faire (but this oath ſo taken) ſhall not conclude the Defendant for pleading in abatement of the action, and to the juriſdiction of the Court, this by the Statute of 1 *R.* 3. cap. 6. is made perpetual in this principal caſe the Defendant in the Court at *Rocheſter*, was condemned in an action of debt for 300l. upon a Bond and contract formerly made, and entred into, and for this cauſe the judgment was erroneous.

No plea ſhall be holden in this Court, unleſs the Plaintiff or his Attorny do ſwear that the contract was made during the time of the Fare. Stat. 1 *R.* 3. c. 6.

Note, that in this Court the *Steward* is Judg, becauſe there are no Suitors there, neither can the Steward delegate a Deputy, 6 *E.* 4. *fol.* 3. 7 *E.* 4. *fol.* 23. The tryal is by Merchants and traders in the fair, and the judgment againſt the Defendant ſhall be *quod amercietur.* 17 *E.* 4. *cap.* 2. 1 *R.* 3 *cap.* 6. 6 *E.* 48. 13 *E.* 48.

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